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ABSTRACT

The collective bargaining agreement between South Dakota Board of Regents and the Council of Higher Education Chapter of the National Education Association is presented. Items covered in the agreement include: definitions; unit recognition; management rights; campus facilities and services; nondiscrimination; grievance procedure; tenure contracts; nonrenewal of tenure track contracts; continuing, temporary, or probationary contracts at special schools (schools for the visually handicapped and deaf); faculty evaluation; student opinion surveys for part of faculty evaluation; intensive review of tenured faculty; rank qualifications for employment and promotion; minimum promotion eligibility criteria; promotion and tenure committee; transfer, assignment, and reassignment; academic freedom; faculty discharge and discipline; personnel files; academic governance; teaching, research, and scholarship responsibilities; librarian workload; faculty outside employment and private consulting; student discipline; the academic calendar; safe working conditions; leaves; fringe benefits; salaries and promotion increments; and dues deduction. Appendices include: grievance forms, dues deduction forms, and staff evaluation form. (SW)

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ED278353

COLLECTIVE BARGAINING AGREEMENT BETWEEN SOUTH DAKOTA BOARD OF REGENTS AND COUNCIL OF HIGHER EDUCATION (NEA)

JUNE 30, 1985

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South Dakota Contract New
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1.00 DEFINITIONS - For the Purpose of This Agreement

1.01 "Academic Governance" will mean all senates, academic councils, or similar entities at system institutions, as presently constituted or subsequently modified and approved by the faculty, recommended to the Board of Regents and approved by the Board of Regents.

1.02 "Administration" or "Administrator" will mean non-bargaining unit personnel employed at the institutions and the executive office of the Board who have supervisory or managerial responsibilities.

1.03 "Day" means calendar day, unless otherwise indicated.

1.04 "Department" or Division" means the smallest grouping of disciplines which are administratively organized.

1.05 "Executive Director" will mean the Executive Director of the Board of Regents as established by SDCL 13-49-10, or designee.

1.06 "Faculty Unit Member" will mean an employee of the Board of Regents included in the collective bargaining unit as defined in Appendix F.

1.07 Gender - Any reference to gender will be all inclusive.

1.08 "Handbook" will mean that compilation of rules, regulations and policies, published by each of the institutions in the system and usually denoted "Faculty Handbook."

1.09 Number - The singular includes the plural.

1.10 "Policy Manual" will mean the compilation of rules, regulations and policies of the Board of Regents.

1.11 "Working days" will mean those days when the offices of the institution or Board are open for business.

1.12 "Will" is a verb having the mandatory sense of "shall" or "must". It is a word of certainty while the word "may" is one of uncertainty.

2.00 RECOGNITION

2.10 RECOGNITION STATEMENT

The Board recognizes COHE as the exclusive representative of the collective bargaining unit, as determined by the Division of Labor and Management Document No. 12E 1976/77, dated the 11th day of August, 1978, or as may be modified by this Agreement, for the purpose of collective bargaining in respect to rates of pay, of the wages, hours of employment, and other conditions of employment as specified by law. The bargaining unit composition is referenced in Appendix F.

2.20 MEMBERSHIP UNIT LISTS

The Executive Director will furnish COHE a list of names and residential addresses of bargaining unit members, compiled as of each October 1st and March 1st. Lists will be forwarded by the Executive Director to the UniServ Director of COHE on or before the 15th of the following month. The Executive Director and COHE will discuss any disputes of names included or not included, on the list, in order to resolve their status. In the event that the Executive Director and COHE cannot resolve a dispute regarding membership in the bargaining unit within forty (40) working days, the name(s) in the dispute will be submitted to the Division of Labor and Management for determination of the status of the person(s) in dispute.

2.30 CHANGES IN UNIT MEMBERSHIP

Each institution will furnish the president of the local COHE chapter a list of changes in the bargaining unit at the institution within fifteen (15) working days of the date those changes are approved by the Board of Regents.

2.40 EXCLUSIVITY

The Board agrees not to recognize or negotiate with unit members or with organizations, other than COHE, claiming to represent the faculty unit on matters reserved to COHE by Section 2.10.

3.00 MANAGEMENT RIGHTS

3.10 STATEMENT

Nothing in this Agreement will derogate or remove any power, right or prerogative possessed by the Board or its administrative staff except where such power, right or prerogative is legally and specifically limited by this Agreement.

3.11

These management rights include but are not limited to the following:

1. To utilize personnel, methods, and means in the most appropriate and efficient manner possible.

2. To manage and direct the employees of the Board.

3. To hire, promote, transfer, assign, retain or retire employees in positions under the jurisdiction of the Board.

4. To establish reasonable work rules of conduct.

5. To suspend, demote, discharge or take other appropriate disciplinary action against employees for just cause.

6. To determine the sizes and composition of the institutions under its control and to lay off faculty unit employees in the event of lack of funds or under conditions where the Board believes that continuation of programs would be inefficient or nonproductive.

7. To interpret the mission of each institution and the methods and means necessary to efficiently fulfill that mission, including the

contracting out for or the transfer, alteration, curtailment or discontinuance of any services.

8. To allocate and distribute at its discretion any funds allocated and appropriated for discretionary distribution purposes within the following guidelines:

   a. Teaching abilities;

   b. Research and scholarly activities;

   c. Demonstrated performance of items a and b above;

   d. Market adjustment considerations;

   e. Experience in duties and responsibilities assigned;

   f. Community and other public service;

   g. Educational levels;

   h. Addressing inequities found by the Board to exist. (See also 22.51)

3.12

The exercise of management rights shall not be used for the purpose of undermining COHE or discriminating against any employee.

3.13

It is acknowledged by the parties to this agreement that there are statutes, regulations and Board of Regents policies that are, and have been, operative in the administration of the rights, entitlements and responsibilities hereunder.

i.e., insurance, travel, judicial or administrative redress, etc. and that such enactments, promulgations and adoptions are subject to change and repeal. To the extent such changes or repeals may occur during the term of this agreement, they are deemed to be part of this agreement to the extent they are not inconsistent with the specific provisions of this agreement.

3.14

Benefits provided by applicable laws, Executive Orders, and regulations will not be denied because of exclusion from this Agreement.

4.00 COHE STATUS

4.10 MEETING FACILITIES

Upon request to the President or Superintendent, the institutional chapters of COHE will be permitted to meet at the institution without charge, if appropriate facilities are available. If special services are required, a charge may be made for such services.

4.11 BULLETIN BOARDS

COHE may post notices on a shared basis with campus groups on existing bulletin boards customarily used for general notices to the faculty. If prior approval of notices appearing on these bulletin boards is needed, this prior approval must also be obtained for COHE notices.

4.12 CAMPUS MAIL RIGHTS

COHE may use the intra-campus mail service. Special mail service fees will be charged for such services used by COHE at each institution on the same basis as any other recognized institutional organization.

4.13 CAMPUS NEWS LETTERS

The institutional chapter of COHE may place an announcement in the institutional faculty newsletter, when published, stating the date, time, place and agenda of any chapter meeting. The format of the announcement will be determined in accordance with regular editorial policy.

4.14 BOARD MEETINGS AND ACCESS TO INFORMATION

The UniServ Director of COHE will be supplied a copy of the agenda of the regular Board meetings by the Executive Director at the same time as copies are supplied to the institutions. If the agenda supplied does not include all public reports and recommendations, they will be made available at the meeting. One (1) copy of the minutes of the meeting will be furnished to the UnivServ Director of COHE. COHE may request to be placed on the tentative agenda and heard by any committee or the Board at a regularly scheduled meeting, provided that such request and the content to be discussed is made known to the Executive Director ten (10) working days prior to the meeting.

Upon request of COHE, the Executive Director will, within ten (10) working days, make available one (1) copy of any public document published by the Board or an institution.

4.15 COHE BUSINESS

Authorized representatives of COHE will be permitted to transact official business on institutional property provided that this will not interfere with or interrupt normal institutional operations or other institutional personnel in the performance of their duties, or conflict with other articles of this Agreement. No faculty unit member will knowingly engage in COHE activities or the preparation of litigation against the institution or the Board of Regents during the time scheduled for performing teaching or other assigned institutional duties.

4.16 TIME OFF FOR COHE BUSINESS

The statewide officers of COHE, not to exceed one (1) at any one time from any one (1) institution, may be given time off for the purpose of conducting official COHE business subject to the following provisions:

1. That the request for time off be approved by the member's immediate supervisor. The President or Superintendent may deny such leave if it will significantly detract from the normal operations of the institution. If any such request is denied, the reasons for such denial will be stated in writing.

2. That the request for time off be submitted to the President or Superintendent no fewer than thirty (30) calendar days prior to the beginning of the semester for which the time off is applicable.

3. That COHE reimburse the unit member's institution for the amount of salary, fringe benefits and other direct costs corresponding to the time off.

COHE members granted such leave will receive credit towards salary and fringe benefit increases as if they were not on leave.

4.17 COHE RESPONSIBILITIES

Should the Board of Regents charge that a member or members of the Bargaining Unit are engaged in illegal activities as per SDCL 3-18, they shall so notify the COHE Director by registered mail. COHE shall immediately, by registered letter, so notify such member or members of the receipt of the Board of Regents charge and shall advise such member or members that their actions are governed by SDCL 3-18. If it shall be objectively established that such Board of Regents charges have substance, COHE shall notify in writing such member or members of its opinion. Copies of such correspondence shall be forwarded to the Board of Regents Executive Director.

5.00 NON-DISCRIMINATION CIVIL RIGHTS AND AFFIRMATIVE ACTION

5.10 STATEMENT

The parties reaffirm their commitment to the objectives of affirmative action, equal opportunity and non-discrimination in accordance with State and Federal law. Redress for alleged violations of those laws by either party may be pursued at law or through procedures established from time to time for that purpose by the Board of Regents Policy and will not be pursued through Article 6.00, Grievance Procedure. The parties recognize that plenary jurisdiction for enforcement of civil rights and anti-discrimination laws is vested solely in various state and federal agencies and the courts. Therefore, the parties agree that it is desirable that civil rights and discrimination grievances may first be pursued through the grievance procedure as provided by Board of Regents Policy 5.4 then in effect.

5.20 RESORTING TO OTHER PROCEDURES

The grievance procedure established under the terms of the Regents Policy Manual shall be deemed to be exclusive remedy available to the grievant for civil rights and discrimination, except to the extent that other remedies are additionally and specifically made available to the grievant under the laws in such cases made and provided. In such latter circumstances, if the faculty unit member seeks resolution of a grievance matter in any forum or by any set of procedures other than those established in the Regents Policy Manual, whether administrative or judicial, the institution or Board will be under no obligation to proceed any further with the matter unless the grievant is under an obligation to exhaust administrative remedies in order to bring such other action.

The act of filing an action in another forum in order to avoid violating a time limitation will not be considered a violation of the intent of this Section.

6.00 GRIEVANCE PROCEDURE

6.10 PURPOSE

The parties agree that all problems should be resolved, whenever possible, before the filing of a grievance. They encourage open communication between administrators and faculty unit members so that resorting to the formal grievance procedure will not be necessary. The parties further encourage the informal resolution of grievances whenever possible. The purpose of this Article is to promote prompt and efficient procedures for investigating and resolving grievances. This procedure will be the method for resolving faculty unit member grievances under this Agreement with the exception of those cases involving alleged discrimination under Article 5.00, Non-Discrimination and Affirmative Action. Such grievances will be handled under current or revised Board Policy.

6.20 INDIVIDUAL GRIEVANCE RIGHTS

Any individual employee or a group of employees shall have the right at any time to present and have grievances adjusted without the intervention of the COHE representative as long as the adjustment is not inconsistent with the terms of this agreement or any settlement between COHE and the Board of Regents, and provided that the COHE representative has been given an opportunity to be present at such adjustment. It shall be the responsibility of the faculty unit member to provide COHE with a copy of any such grievance. Upon request the institution shall provide COHE with a written statement of any resolution.

6.30 RESORTING TO OTHER PROCEDURES

The grievance procedure established under the terms of this Agreement shall be deemed to be the exclusive remedy available to the grievant. except to the

extent that other remedies are additionally and specifically made available to the grievant under the laws in such cases made and provided. In such latter circumstances, if the faculty unit member seeks resolution of a grievance matter in any forum or by any set of procedures other that those established in this Article, whether administrative or judicial, the institution or Board will be under no obligation to proceed any further with the matter unless the grievant is under an obligation to exhaust administrative remedies in order to bring such other action. The act of filing an action in another forum in order to avoid violating a time limitation will not be considered a violation of the intent of this Section.

6.40 DEFINITIONS

For the purpose of this Article:

1. the term "grievance" will mean an alleged misinterpretation, misapplication or violation of a specific term or provision of this Agreement, except where excluded in other articles of this Agreement. Any other grievances authorized by law, and which do not constitute a grievance under this definition, may be processed through current or revised Board Policy;

2. the term "grievant" will mean a named faculty unit member or a group of named faculty unit members, or COHE where the rights abridged are distinctive to the organization as opposed to an individual or group of faculty unit members;

3. "working days" as used herein will mean those days when the offices of the institution or Board are open for business - Monday through Friday - exclusive of legal holidays. Working days shall be tolled and not

counted under special circumstances where the unit member is unavailable to process his or her grievance by reason of travel or absence necessitated for continuing education, in special cases of emergency, during holiday vacation time except where a grievance has already been filed, and where a grievant is committed to other employment during a non-contract period.

6.50 REPRESENTATION

Faculty unit members, in processing grievances, may represent themselves or be represented by someone of their choice. Beginning at Step 2, COHE and the Administration will have the right to have an observer present at all meetings between the parties called for the purpose of discussing grievances. The president of the institutional COHE chapter will be informed in writing at lease two (2) working days in advance of any Step 2 meeting. No resolution of any individually processed grievance will be inconsistent with the terms of this Agreement.

6.60 CONFIDENTIALITY

The grievance proceedings will be maintained as confidential, subject only to the necessity of the parties to prepare their cases. All meetings and conferences will be held in private.

6.70 TIME LIMITATIONS

When any action which is required to be taken within a specified time period is not taken in time, the following will apply:

1. If the grievant fails to act within the time limits provided herein, the administration will have no obligation to process the grievance and it will be deemed withdrawn.

2. In the case where the Administration fails to act in time the grievant may proceed to the next review level and any subsequently issued decision on the matter at the bypassed level, will be void.

6.80 STEPS FOR PROCESSING A GRIEVANCE

1. Step 1 (Informal)

A grievant must first present a grievance, identified as such, in writing and informally at the lowest administrative level having authority to dispose of the grievance. The grievance must be filed within twelve (12) working days of the date on which the grievant knew or should have known of the action or condition which occasioned the grievance. The administrator upon learning of the grievance, will investigate the grievance as deemed appropriate including a private meeting with the grievant and respond to the grievant in writing within seven (7) working days. Notwithstanding the foregoing, if the office of the President or Superintendent represents the lowest administrative level having authority to dispose of the grievance then the grievance will be filed in the first instance at Step 2.

2. Step 2

If the grievance is not resolved in Step 1, the grievant will formalize the grievance in accordance with the prescribed grievance form (Appendix A - Grievance Form - Step 2) and file it with the President

or Superintendent of the institution within five (5) working days of the Step 1 decision. This form requires the legal name of the grievant, a statement of the specific provision(s) of this Agreement alleged to have been violated, the relief requested, and evidence that the grievant attempted and informal adjustment of the grievance, as required in Step 1.

The President or Superintendent may elect to issue a decision based upon personal investigation, the finding and recommendation of a designee or the findings and recommendation of an investigative panel of nonunit members.

Prior to the issuance of a decision, and after any investigation is completed, the President or Superintendent will inform the President of the local COHE chapter as required in Section 6.50 and hold an informal conference with the grievant, a designated COHE representative and a second representative designated by the adminsitration in an attempt to effect a settlement. If no settlement is reached at that meeting, the President or Superintendent will proceed to issue a decision.

The President or Superintendent will, within fifteen (15) working days after the grievance was filed at Step 2, notify the grievant of the decision. The decision will include a statement of the findings and conclusions supporting the decision.

Except as otherwise agreed, all meetings in regard to Step 2 grievances will be held on the campus where the grievance occurs.

3. Step 3

If the grievance has not been resolved in Step 2, the grievant may file a written request for an appeal of the Step 2 decision on the prescribed form (Appendix B - Grievance Review Form). The request will be filed with the Executive Director within ten (10) working days following receipt of the Step 2 decision. A copy of the request will be sent by the grievant to the President or Superintendent of the institution.

The Executive Director will have fifteen (15) working days within which to attempt, at his discretion, a resolution through informal means.

If no resolution is achieved within the time herein last provided, the formal grievance shall be referred to a Hearing Examiner who shall be designated by the Board of Regents and who, within ten (10) days after his designation and appointment, set the matter down for full hearing to be held no earlier than seven (7) days and no later than fifteen (15) days after his notice of appointment has been postmarked to COHE.

Such hearing shall be conducted in private and all parties to the grievance will make no public statements about the case during the pendency of the proceedings. Both COHE and the Board representatives are entitled to be present at the hearing.

All parties to the grievance have the right to obtain witnesses and present evidence. The institution(s) will cooperate with the Hearing Examiner in securing witnesses and in making available specifically identified and relevant documentary and other evidence requested by

the grievant(s), to the extent not limited by contract or law. Faculty unit members will respond to requests to give testimony under oath, incidental to the processing of any grievance under this Article. The parties to the grievance have the right to cross-examine witnesses. Where a witness cannot or will not appear, but the Hearing Examiner determines that the interest of justice requires admission of their statement, then the Hearing Examiner will arrange for a deposition. The Hearing Examiner may grant continuances when requested by either party to enable either party to investigate evidence, or for any other reason deemed appropriate. The Hearing Examiner will keep a record of the proceedings.

The hearing will not be conducted under strict rules of legal evidence and is not a contested case. Every possible effort will be made to obtain the most reliable evidence.

The Hearing Examiner will make a recommendation to the Board which will take the form of findings, conclusions and an order of disposition and will be issued within fifteen (15) working days of the hearing or as soon as possible thereafter. A copy of the recommendation will be provided to COHE, the grievant(s) and the President or Superintendent. The recommendation must be based solely on the record, pertinent institution and Board policies, this Agreement and the law of the land. If the recommendation reverses or modifies the Step 2 decision, it must be accompanied by a statement of reasons and referred along with the record, to the Central Office of the Board of Regents.

The Board will make a final decision based upon the recommendation of the Hearing Examiner. In addition, it may review the record pertinent to the issues for their review. Such decision will be made at the next regularly scheduled Board meeting following receipt of the recommendation, provided the recommendation is received ten (10) working days prior to the Board meeting. If not received in time the recommendation will be acted upon at the subsequent meeting. If the Board rejects or modifies the recommendation of the Hearing Examiner, the Board will provide COHE and the grievant with the reasons for rejecting or modifying the recommendation. Appeals from the decision of the Board of Regents will be governed by SDCL 3-18-15.2, and other laws in such cases made and provided.

6.90 MISCELLANEOUS PROVISIONS

1. No offer of settlement of a grievance by either party to the grievance will be admissible as evidence in later grievance proceedings, or elsewhere. No settlement of a grievance will constitute a binding precedent in the settlement of similar grievances, unless otherwise agreed.

2. If the grievance concerns non-renewal, salary, denial of promotion, or denial of tenure, the grievance review will be limited to determining whether the decision was the result of failure to follow procedures, unless otherwise provided in this Agreement. The burden of proof, in such cases, shall rest with the grievant.

3. Neither COHE nor the Board will retaliate or effect reprisals against any faculty unit member for processing or participating in a grievance.

4. In the event a grievance is filed near the end of an academic year and strict adherence to time limits will result in hardship to any party, the parties will do everything reasonable to allow the grievance to be processed in an expeditious manner.

5. Grievance records will not be maintained in any faculty unit member's institutional personnel file.

6. The parties to the grievance may, in their discretion, waive any of the time limitations provided for herein; provided, however, that such waiver must be in writing and signed by both parties involved at the particular level or step of the grievance machinery.

7. In the case of a grievance concerning a discharge for cause or a termination pursuant to Article 13.00, Faculty Unit Member Reduction Procedures, the burden of proof will rest upon the administration to the extent required by law. In all other cases the burden of proof will rest upon the grievant.

8. Each party to the grievance will bear their own expense in a grievance proceeding. The institution or the Board will bear the expense of providing the Hearing Examiner and all attendent costs thereto.

9. A grievant shall be permitted to amend a grievance by further specifications and submitting newly discovered information which may further document or support the grievance previously filed.

7.00 INDIVIDUAL CONTRACTS - HIGHER EDUCATION

7.10 TYPES OF CONTRACTS - HIGHER EDUCATION INSTITUTIONS

A contract extended to a faculty unit member at a higher education institution will be one of the following: term, tenure track or tenure.

7.11 TERM CONTRACTS - HIGHER EDUCATION INSTITUTIONS

A term contract may be either part-time or full-time, and shall be of a definite term not to exceed one year or overlap any fiscal year, unless such contract is approved by the Board. A term contract shall terminate automatically at the end of the term unless the Board expressly renews the contract.

7.12 TENURE TRACK CONTRACT - HIGHER EDUCATION INSTITUTIONS

A tenure track contract is a qualifying appointment offered to a full-time faculty unit member who may be considered for a tenure contract at a later time, and shall be of a definite term, not to exceed one fiscal year. A tenure track contract is renewable solely at the discretion of the Board, subject to procedures for non-renewal of tenure track contracts set forth in Section 7.16. If a faculty unit member is offered a tenure track contract, the number of years the faculty unit member has served under term contracts may be credited, at the discretion of the Board, toward fulfillment of the period necessary for consideration for a tenure contract.

7.13 TENURE CONTRACTS - HIGHER EDUCATION INSTITUTIONS

Tenure contracts are addressed in Article 11.00, Tenure and Continuing Contracts.

7.14 CONTRACT YEAR - HIGHER EDUCATION INSTITUTIONS

The contract year for those faculty unit members employed for the academic year at the higher education institutions will be August 17 through May 20. The contract year for any academic year may be extended up to seven (7) additional calendar days in order to allow an equivalent extension of the Christmas break for the purpose of obtaining utility cost savings. (See Section 18.90, Academic Calendar - Higher Education Institutions.)

The maximum duty days for a faculty unit member will remain under negotiations between the parties until or unless an accord is reached or until or unless the parties shall be deadlocked on the issue.

The Board will retain its discretion on a year to year basis to employ faculty unit members for contract periods in excess of nine (9) months.

7.15 INDIVIDUAL CONTRACTS - HIGHER EDUCATION INSTITUTIONS

Faculty unit members shall receive written notice of appointment signed by the President, Superintendent, or an authorized representative, for each year they are employed by the Board. The faculty member shall have twenty (20) calendar days from receipt to accept the employment offer, and the employment contract shall not become binding until the notice is executed by both the faculty member and the appointing authority, and returned by the faculty member to the institution. Each appointment shall contain at least the following elements:

1. date offered to the faculty unit member;

2. rank, title, or classification;

3. employment unit;

4. beginning and ending dates of the contract;

5. type of contract;

6. specific and special conditions and responsibilities of employment;

7. a statement that the contract is subject to the Constitution and laws of the State of South Dakota. policies and regulations of the Board, and the provisions of this Agreement;

8. tenure status;

9. prior service credited for tenure; and

10. salary.

7.16 NON-RENEWAL OF TENURE TRACK CONTRACTS - HIGHER EDUCATION INSTITUTIONS

Prior to the issuance of a written notice of non-renewal, the faculty unit member's immediate supervisor will provide the opportunity for a meeting with the faculty unit member to apprise the faculty unit member of the proposed action. The faculty unit member will be given at least two (2) working days written notice of such meeting so that both the faculty unit member and the immediate supervisor may arrange to have present a witness or representative.

In order to facilitate the relocation of faculty unit members who are not to be rehired, the administration agrees to provide notice of its intent not to rehire any faculty unit members serving under a tenure track contract in accordance with the following schedule:

1. A faculty unit member who has completed less than one (1) academic year of service under a tenure track contract shall receive written

notice of non-renewal from the institution before March 1 of the current year of appointment.

2. If a faculty unit member has completed more than one (1) but less than four (4) years of service under a tenure track contract, the institution shall provide the faculty member with written notice of non-renewal before December 15 of the current year of appointment. However, if the faculty member is currently subject to the provisions of a prescriptive plan, the institution shall provide the faculty member notice of non-renewal prior to March 1 of the current year of employment. The non-renewal faculty member may file a request for reconsideration with the president within ten (10) working days of receipt of the notice of non-renewal. The president, after reviewing the request, shall notify the faculty member, within ten (10) working days, of the final institutional recommendation to be forwarded to the Board.

3. If a faculty member has completed at least four (4) years of service under a tenure track contract, the institution shall provide the faculty member with written notice of non-renewal before April 1 of the current year of appointment. Such faculty member having received written notice of non-renewal shall receive a term contract for the term of one (1) academic year, effective the subsequent academic year. The faculty member may file a request for reconsideration with the president within ten (10) working days of receipt of the notice of non-renewal. The president, after reviewing the request, shall notify the faculty member within ten (10) working days, of the final institutional recommendation to be forwarded to the Board. The

faculty member may file with the president a statement which will accompany the institutional recommendation to the Board. The Board will consider the institutional recommendation and any statement at its next regularly scheduled meeting and shall issue its binding decision which shall be deemed final at the end of ten (10) days from the date of issuance unless such faculty unit member shall submit a resignation prior thereto.

4. Nothing in the article shall prevent the administration from hiring a non-renewed tenure track member on successive term contracts.

If the administration is late in providing the notice stipulated in 1 or 2 above, the faculty unit member will be entitled to receive, at the election of the administration, either (1) an additional term contract for a period of time equal to twice the number of working days by which the notice is late; or (2), to a payment equal to twice the number of working days by which the notice is late times the faculty unit member's monthly salary divided by twenty-two (22).

The years of service required for the above notice provisions will not be affected by any reduction of the tenure track period granted by the Board pursuant to paragraph four (4), Section 11.10.

7.17 CONTRACT FULFILLMENT - HIGHER EDUCATION

Full time faculty unit members who after their second year of employment, resign their individual contract for the purpose of receiving employment outside the Regental System without the consent of the Board shall be deemed thereby to consent to liquidated damage compensation to the Board for the additional expense caused by said breach of contract. However, any faculty unit member who so resigns and breaches this contract shall be allowed to request a waiver of the

8.00 INDIVIDUAL CONTRACTS - SPECIAL SCHOOLS

8.10 TYPES OF CONTRACTS - SPECIAL SCHOOLS

A contract extended to a faculty unit member at a special school institution will be one of the following: continuing, temporary, or probationary.

8.20 CONTINUING CONTRACTS - SPECIAL SCHOOLS

Individual faculty unit member continuing contracts will include the same elements required in Section 8.40 except for that information required by subsections 8 and 9 and will include the tentative teaching assignments. The administration will make every effort to assign the faculty unit members to their teaching assignments as soon as possible. The faculty unit member will have the opportunity to review the tentative assignment and discuss it with the administration before such assignment is finalized. In the event changes in such assignments occur the faculty unit member will be notified. If requested, the faculty unit member will have the right to discuss the change in assignment with the administration, if such a request is made within five (5) working days of the notification of change in assignment. If the faculty unit member does not wish to accept the change in assignment, the faculty unit member may terminate the contract by written notice within ten (10) working days of the change in assignment notification. Changes in the faculty unit member's assignment will not be made later than August 1st, except by mutual agreement.

The tentative teaching assignments will include, for example, grade level or group level: Early Childhood, Preschool, Primary, Intermediate, Junior High, High School, Vocational, Itinerant or Remedial. Subject areas for assignments which are not in a self-contained classroom will be listed.

deduction of said liquidated damages, in lump sum, from any pay owed to the unit member by the Board. Upon good cause, the Board shall not unreasonably withhold its waiver of said liquidated damages and the deduction thereof from allowances owed. Consent to resignation and breach of an individual contract shall be deemed given by the Board if written notice is given to the institution thirty (30) or more days prior to the first day of the individual contract.

When deemed by the Board to be appropriate, liquidated damages shall accrue and be assessed at the rate of $50.00 per day beginning on the 29th day prior to the first day of the individual contract, not to exceed $1,500.00.

Continuing contracts are addressed in Article 11.50, Tenure and Continuing Contracts.

8.30 TEMPORARY CONTRACTS - SPECIAL SCHOOLS

A temporary contract may be for either part-time or full-time employment, will be for a definite term not to exceed one (1) fiscal year, and will terminate automatically at the end of the term. Such contracts are renewable solely at the discretion of the Board. Reasons for the issuance of temporary contracts may include, but are not limited to, the following: funding by grants or special projects outside the Board's legislative appropriation, temporary replacement of a faculty unit member on educational or other leave of absence, a temporary manpower need created for the interim of a job search, for an unanticipated increased workload or for a vacancy within a school term where it is more appropriate to fill the position temporarily. If a faculty unit member's contract is changed to a continuing contract, the number of years the faculty unit member has served under temporary contracts may be credited, at the discretion of the Board, towards fulfillment of the period necessary for consideration for a continuing contract. Temporary contracts will not be used to avoid the proper application and use of probationary or continuing contracts.

8.40 PROBATIONARY CONTRACTS - SPECIAL SCHOOLS

A probationary contract may be given to a full-time faculty unit member who is occupying a permanent position and who is in the first or second complete academic year of appointment with the special school. During the period of probationary appointment, faculty unit members will be evaluated once each semester and informed of any deficiencies. (Probationary contracts are also addressed in Article 11.50 Continuing Contract Provisions - Special Schools.

8.50 CONTRACT YEAR - SPECIAL SCHOOLS

The contract year for the special schools will be set by the Board relative to the following guidelines:

The school year for nine (9) month faculty unit members will not exceed 175 student contact days. New faculty unit members will have no more than two (2) orientation days. In addition, all faculty unit members will have no more than six (6) professional days, which may include a registration day. At least one (1) professional day, prior to the first day of classes, will be devoted exclusively to the teachers' classroom preparation. Nine (9) month faculty unit members will not be required to report for work prior to August 15th or work after May 31st.

The contract year for ten (10) month faculty unit members will not exceed 195 contact days, plus professional days as specified for nine (9) month faculty unit members. Based upon the needs of the program, the contract year will begin approximately ten (10) working days prior to nine (9) month faculty unit members and conclude approximately ten (10) working days following nine (9) month faculty unit members.

The employment contract period for twelve (12) month faculty unit members will begin on July 1st and end June 30th.

No student contact days or working days will be held on legal state holidays with the exception of Veterans' Day. If Veterans' Day is a scheduled contact day faculty unit members will have an additional day added to another vacation period.

No faculty unit member will be required to work on Saturdays or Sundays. The Saturday-Sunday exclusion does not apply to the SDSVH Deaf-Blind Department. No workdays or classes will be scheduled during the SDEA Convention unless jointly agreed to by the local COHE Chapter and the administration. In the event classes are held during the SDEA Convention, faculty unit members desiring to attend the convention will be given leave with pay and be provided a substitute for his/her classroom.

If scheduled student contact days for nine (9) month faculty unit members are less than 175 days due to inclement weather, or other unforeseen conditions, additional contact days will be agreed to by the parties. If the parties cannot reach agreement, the Superintendent will designate the replacement days. These days will be within the contract period or immediately following the end of the contract period if it is unworkable to schedule such within the contract period.

8.60 NON-RENEWAL OF PROBATIONARY CONTRACTS - SPECIAL SCHOOLS

On or before the first day of May the administration will notify in writing a faculty unit member who is in the first or second full year of employment at one (1) of the special schools, of its intention not to renew the faculty unit member's contract. The faculty unit member, upon written request made within five (5) working days of the notice, will be afforded an informal, private conference with the administration. The faculty unit member will have the right to have a representative present. The conference will not be required if the faculty unit member is not being rehired because of a reduction in staff. The decision of the administration will be final and is not subject to the grievance procedure.

8.70 CONTRACT FULFILLMENT - SPECIAL SCHOOLS

Full time faculty unit members who after their second year of employment, resign their individual contract for the purpose of receiving employment outside the Regental System without the consent of the Board shall be deemed thereby to consent to liquidated damage compensation to the Board for the additional expense caused by said breach of contract. However, any faculty unit member who so resigns and breaches this contract shall be allowed to request a waiver of the deduction of said liquidated damages, in lump sum, from any pay owed to the unit member by the Board. Upon good cause, the Board shall not unreasonably withhold its waiver of said liquidated damages and the deduction thereof from allowances owed. Consent to resignation and breach of an individual contact shall be deemed given by the Board if written notice is given to the institution thirty (30) or more days prior to the first day of the individual contract.

When deemed by the Board to be appropriate, liquidated damages shall accrue and be assessed at the rate of $50.00 per day beginning on the 29th day prior to the first day of the individual contract, not to exceed $1,500.00.

9.00 EVALUATION

Faculty unit member evaluation is a joint concern of the faculty and the administration. The purpose of the evaluation will be to:

1. Promote positive communication between faculty and administration.

2. Increase awareness of institutional program objectives and needs.

3. Provide information for decisions on professional training, staff improvement programs and those conditions which promote quality performance.

4. Provide information for personnel decisions such as discipline, nonrenewal, salary and pay matters, tenure, and promotion.

The administration will be responsible for implementation of the procedures and the evaluation process.

9.10 EVALUATION PROCEDURES - SPECIAL SCHOOLS

Prior to establishing or revising evaluation procedures and instruments the administration will initiate the following sequence:

1. The administration will develop tentative faculty evaluation procedures and instruments.

2. The administration will transmit the tentative faculty evaluation procedures and instruments to COHE for review.

3. COHE will have fifteen (15) working days to submit written recommendations to the administration. Upon request of COHE, a meeting will be held to discuss the recommendations.

4. The administration will finalize, publish, and distribute the evaluation procedures and instruments to each faculty unit member for informational purposes.

9.20 PERFORMANCE EVALUATION GUIDELINES - HIGHER EDUCATION INSTITUTIONS

Performance evaluations will be conducted in accordance with the following guidelines:

1. Non-tenured faculty unit members will be evaluated on an annual basis. The evaluation will be conducted by each faculty unit member's immediate supervisor and will include opinion surveys if the faculty unit member's duties include teaching. The performance evaluation process for tenured faculty unit members will include the intensive review procedures set forth at Section 9.60. In addition, annual performance evaluation for tenured faculty unit members may be initiated by the faculty unit member's immediate supervisor(s), or by the faculty unit member.

2. The performance evaluation will be in written form and will be signed by the immediate supervisor(s). A copy will be furnished to the faculty unit member being evaluated. The faculty unit member being evaluated will have ten (10) working days within which to respond. All such responses will be attached to the evaluation.

3. The faculty unit member being evaluated, on request, shall be apprised in writing of his percentile ranking with other unit members being evaluated by his immediate supervisor.

4. As a part of the evaluation process, the faculty unit member and the

immediate supervisor may discuss the faculty unit member's planned activities and professional objectives for the following year(s). Correspondence and memoranda between the faculty unit member and the immediate supervisor may be considered as part of the evaluation process.

5. If the evaluation identifies deficiencies in performance of assigned duties that are considered serious by the supervisor(s), the administration will develop a prescriptive plan to remedy the faculty unit member's deficiencies and will provide reasonable assistance to the faculty unit member in achieving the required improvement. The plan will provide for guidance and direction from the administration, and for achievement by the faculty unit member. The ultimate responsibility for improvement shall rest with the faculty unit member. However, it should be the responsibility of the administration to assist the faculty member in making improvements. In the event that the faculty unit member disagrees with the plan, he shall, within ten days, request the intercession of a peer group established by COHE for that purpose. The peer group shall consider the dispute and, within twenty (20) days following the request, submit its recommendation for affirmance, reversal or modification. Such recommendation shall be advisory only, but will become a part of the unit member's personnel file.

   No plan will be implemented until the immediate supervisor has held a meeting with the faculty unit member to discuss the plan. If the faculty unit member disagrees with any aspect of the prescriptive plan, the faculty unit member will have the right to respond in

writing to the areas of disagreement within ten (10) working days of the meeting. All such written objections and comments of the faculty unit member will be attached to the prescriptive plan. If the faculty unit member fails to correct the serious deficiencies identified in the prescriptive plan, the faculty unit member may be subject to action pursuant to Article 15.

9.25 EVALUATION PROCEDURE

Prior to the last day of February, the supervisor will complete an evaluation of the performance of each faculty member for the previous calendar year, using the form in Appendix H. The evaluation will consist of five parts:

1. Establishment of responsibilities for each faculty member. Based on the workload goals of the department, the faculty member and department head will discuss percentages of time which the faculty member will allocate to teaching, research and scholarship, and service. In the event of a disagreement in the percentages, peer groups may be consulted in an attempt to resolve the differences. In the event of unresolved differences, the department head shall unilaterally assign responsibilities to the faculty unit member.

2. Faculty member self-evaluation. The faculty member will review his/her factual information listing accomplishments for the year and may include any student evaluations given to request student input. Based on this information, the faculty member will fill in part A of Appendix H to the evaluation form which shall be presented to the department head by January 1 of each year. The faculty member and the department head will informally discuss the self-evaluation by January 30.

3. Department head's assessment of performance and indication of progress toward promotion, tenure, contract renewal, or augmentation monies (PIF, Merit, Critical, Discretionary, etc.). Based on observations of the faculty member and the informal discussion described above, the department head will complete the remainder of the evaluation form.

part B of Appendix H. Included in the evaluation must be comments about progress toward promotion, progress toward tenure, and recommendations for augmentation monies and contract renewal. If the faculty member disagrees with the evaluation, it may be sent to a peer group of the unit member's choice for additional signed recommendations to be attached to the evaluation before the forms need to be signed. This process must be finished by March 25.

4. Faculty response to this assessment. If the faculty member has any additional comments to make after this process, he/she may note them in the additional staff member's comments section. This process must be finished by March 25.

5. Review and Recommendation by the Vice President/Dean. The Vice President/Dean will review the completed evaluation and make appropriate comments about contract renewal, augmentation monies, promotion, or tenure.

9.30 STUDENT OPINION SURVEYS - HIGHER EDUCATION INSTITUTIONS

Student opinion surveys will be used as part of the evaluation of faculty unit members along with other procedures set forth in this Article. If serious deficiencies in performance are suggested in student evaluations, the immediate supervisor shall investigate such deficiencies by evaluative means, other than by student evaluations. If such investigation corroborates the results of the student evaluations, the faculty unit member's immediate supervisor shall comment upon the student evaluations in the faculty unit member's annual evaluation.

No unsigned individual student evaluation instruments will be copied by the administration except for purposes of data analysis. Confidentiality and security will be maintained for all evaluation data.

Student opinion surveys will not be used as the controlling criterion for personnel actions.

The term "student opinion surveys" is understood to include opinion surveys by classroom students, graduating seniors and alumni three to five years after graduation.

9.40 FILING OF EVALUATION DOCUMENTS

The student opinion survey or summary report required by Section 9.30 will be attached and made a part of the performance evaluation prepared in accordance with the procedures set forth in Section 9.25.

The completed evaluation and any plan developed to correct deficiencies will be placed in the faculty unit member's personnel file.

9.50 PERFORMANCE EVALUATION GUIDELINES - SPECIAL SCHOOLS

1. Probationary faculty unit members will be formally evaluated during each semester of their first two (2) years of employment at the special schools. Formal evaluation will be completed by December 20 in the fall semester and April 15 in the spring semester.

2. Annual evaluation of continuing contract faculty unit members will be completed by April 30 of each year.

3. Faculty evaluation is an ongoing process and will include at least one (1) formal observation of not less than thirty (30) minutes of a class period, and may consist of informal observations of assigned responsibilities.

4. Formal classroom observation(s) of faculty unit members as a part of the evaluation procedure, will be preannounced.

5. The evaluator(s) will discuss the formal evaluation document with the faculty unit member. The performance evaluation will be in written form and signed by the evaluator(s), with a copy furnished to the faculty unit member prior to the discussion. The faculty unit member will have ten (10) working days in which to respond, in writing. All such responses will be given to the evaluator who in turn will attach the faculty unit member's response(s) to the evaluation instrument.

6. If the evaluation identified deficiencies in the performance of assigned duties that are considered serious by the supervisor(s), the administration will develop a prescriptive plan to remedy the faculty unit member's deficiencies. The plan will provide for assistance from the administration.

   No plan will be implemented until the immediate supervisor has held a meeting with the faculty unit member to discuss the plan. If the faculty unit member disagrees with any aspect of the plan, the faculty unit member will have the right to respond in writing to the areas of disagreement. All such objections of the faculty unit member will be attached to the plan.

9.60 INTENSIVE REVIEW OF TENURED FACULTY - HIGHER EDUCATION INSTITUTIONS

Tenured faculty members shall receive an intensive review five (5) years after their appointment with tenure and at five (5) year intervals thereafter.

In order to facilitate the evaluation procedure the tenured faculty unit member will review his/her factual information listing accomplishments for the five year period and may include any student evaluations given to request student input. Based on this information, the faculty member will fill in appropriate background information as indicated on Appendix H to this contract (the evaluation form) which shall be presented to the department head by January 1 of the current year. The faculty member and the department head will informally discuss the self-evaluation by January 30.

Department head's assessment of performance. Based on observations of the faculty member and the informal discussion described above, the department head will complete the remainder of the evaluation form. Included in the evaluation must be comments about the faculty unit member's performance in each of the areas of teaching, research and scholarship, and service. If the faculty member disagrees with the evaluation, it may be sent to the lowest appropriate Promotion and Tenure Committee for additional recommendations to be attached to the evaluation before the forms need to be signed. This process must be finished by March 20.

Faculty response to this assessment. If the faculty member has any additional comments to make after this process, he/she may note them in the additional staff member's comments section. This process must be finished by March 25.

Review and comments by the Vice President/Dean. The Vice President/Dean will review the completed evaluation and make appropriate comments to the President. The President may then make his recommendation to the Board of Regents which may include:

A. That the faculty unit member's performance is within expectations.

B. That the faculty unit member should be placed on a prescriptive plan, or subjected to appropriate measures in accordance with Article 15.

10.00 RANK AND PROMOTION - HIGHER EDUCATION INSTITUTIONS

10.10 RANK QUALIFICATIONS FOR EMPLOYMENT AND PROMOTION

The rank qualifications which are set forth below are minimums for employment and promotions. All reference to teaching or research experience in rank qualifications listed below will mean full-time academic year appointments. For purposes of this article, one year of full-time successful service with the Agricultural Cooperative Extension Service is equivalent to one year of successful college teaching or research experience.

10.20 MINIMUM RANK QUALIFICATIONS

INSTRUCTOR: (Term or Tenure Track Contract Only)

1. Earned baccalaureate and three (3) years of successful teaching experience in an appropriate field (or equivalent appropriate experience); or

2. Earned master's; or

3. Demonstrated knowledge and experience leading to regional or national recognition in field of specialty.

ASSISTANT PROFESSOR: (Tenurable at BHSC, DSC, and NSC Only)

1. Earned master's and three (3) years of successful college teaching or research experience in appropriate fields (or appropriate equivalent experience). For faculty unit members whose initial appointment is for the 1982/83 fiscal year or thereafter, thirty (30) additional hours of graduate credit will be required; or

2. A post graduate degree, other than a doctorate, recognized by the institutional administration, as terminal for the faculty unit members' discipline, and two (2) years of successful college teaching or research experience in appropriate fields (or appropriate equivalent experience); or

3. Earned doctorate.

ASSOCIATE PROFESSOR: (Tenurable)

1. Earned doctorate and five (5) years of successful college teaching or research experience in appropriate fields (or appropriate equivalent experience); or

2. A post-graduate degree, other than a doctorate, recognized by the institutional administration, as terminal for the faculty unit members' discipline and six (6) years of successful college teaching or research experience in appropriate fields (or appropriate equivalent experience.)

PROFESSOR: (Tenurable)

1. Earned doctorate and ten (10) years of successful college teaching or research experience in appropriate fields (or appropriate equivalent experience); or

2. A post-graduate degree, other than a doctorate, recognized by the institutional administration, as terminal for the faculty unit members' discipline, and twelve (12) years of successful college teaching or research experience in appropriate fields (or appropriate equivalent experience).

The administration may recommend the foregoing rank titles to the Board for faculty unit members employed in specialized or technical areas in accordance with the exceptions criteria set forth in Section 10.40.

INSTRUCTOR (Technical): (Term or Tenure Track Contract Only)

1. Demonstrated knowledge and experience in field of specialty, three (3) years of administratively approved industrial or business work experience in the area of teaching specialty, and meet qualifications of job description; or

2. Earned bachelors degree and three (3) years of administratively approved industrial or business work experience in the area of teaching specialty; or

3. Earned masters degree.

ASSISTANT PROFESSOR (Technical): (Tenurable at DSC, NSC and BHSC)

1. Earned bachelors degree, three (3) years of administratively approved industrial or business work experience in the area of teaching specialty, and five (5) years of college teaching experience; or

2. Earned bachelors degree, three (3) years of administratively approved industrial or business work experience in the area of teaching specialty, three (3) months of administratively approved additional industrial or business experience since initial appointment, or one hundred twenty (120) clock hours of administratively approved technical specialty schooling, or five (5) semester hours toward an advanced degree supportive of

teaching major, and four (4) years of successful college teaching experience in the specialty; or

3. Earned masters degree and three (3) years of successful college teaching experience in the specialty.

ASSOCIATE PROFESSOR (Technical): (Tenurable)

1. Earned bachelors degree, three (3) years of administratively approved industrial or business experience in the area of teaching specialty, six (6) months of administratively approved additional industrial or business experience since receiving assistant professor rank, or two hundred forty (240) clock hours of administratively approved technical specialty schooling, or ten (10) semester hours toward an advanced degree supportive of teaching specialty, and eight (8) years of successful college teaching experience; or

2. Earned masters degree, three (3) years of administratively approved industrial or business experience in the area of teaching specialty, and eight (8) years of successful college teaching experience in specialty.

PROFESSOR (Technical): (Tenurable)

1. Earned masters degree, plus fifteen (15) semester hours, three (3) years of administratively approved industrial or business experience in the area of teaching specialty, and twelve (12) years of successful college teaching experience in specialty; or

2. Earned masters degree, plus fifteen (15) semester hours, three (3) years of administratively approved industrial or business experience in the area of teaching specialty, and additional six (6) months of administratively approved business and industrial experience since receiving the associate professor rank or two hundred forty (240) clock hours of administratively approved technical specialty schooling and ten (10) years of successful college teaching experience in specialty; or

3. Earned masters degree, three (3) years of administratively approved industrial or business experience in the area of teaching specialty, and additional twelve (12) months of administratively approved industrial or business experience since receiving the associate professor rank or four hundred eighty (480) clock hours of administratively approved technical specialty schooling, and ten (10) years of successful college teaching experience in specialty; or

4. Earned specialist degree, three (3) years of administratively approved industrial or business experience in area of teaching specialty, and nine (9) years of successful college teaching experience in specialty; or

5. Earned doctorate degree, three (3) years of administratively approved industrial or business experience in area of teaching specialty, and eight (8) years of successful college teaching experience in specialty.

10.30 MINIMUM PROMOTION ELIGIBILITY CRITERIA

The minimum eligibility criteria for consideration for promotion in rank will be:

Instructor to Assistant Professor (Academic or Technical):

Three (3) years in rank, including at least two (2) in the institution; high level of performance in the areas of responsibilities commensurate with promotion to the rank of Assistant Professor.

Assistant Professor to Associate Professor (Academic or Technical):

Four (4) years in rank in the institution; high level of performance in the areas of responsibilities commensurate with promotion to the rank of Associate Professor.

Associate Professor to Professor (Academic or Technical):

Five (5) years in rank in the institution; high level of performance in the areas of responsibilities commensurate with promotion to the rank of Professor.

All reference to years in rank herein will mean full-time academic year appointments.

10.40 EXCEPTIONS

Upon the recommendation of the institutional president, the Board may grant exceptions to the minimum rank qualifications (10.20) or the promotion eligibility criteria relating to the minimum number of years in rank in the institution (10.30), or both. The Board will consider for promotion under this Section, only those faculty unit members, who in the judgment of the Board, have demonstrated that their level of performance

and/or professional qualifications are notably excellent and sufficient to offset the lack of a required degree or years in rank.

10.50 PROCEDURES FOR PROMOTION RECOMMENDATIONS - HIGHER EDUCATION INSTITUTIONS

Faculty unit members who wish to be considered for promotion will notify their immediate supervisor in writing no later than October 15. Such notification will allow the promotion and tenure committees, instituted under Section 10.60, access to the faculty unit member's personnel file. It is the responsibility of the faculty unit member to prepare documentation appropriate for use by the promotion and tenure committees and appropriate administrators in judging the faculty unit member's qualification for promotion. This documentation must accompany the request to the immediate supervisor for consideration. Recommendations of the department head (and the departmental promotion and tenure committee, if any) will be forwarded by the department head no later than November 5.

The promotion and tenure committees will make their recommendations to the administrator of the applicable department or appropriate unit. Administrators will consider the recommendations of their departmental or unit promotion and tenure committee in formulating their recommendations to the next level of the process. Recommendations will be forwarded by the appropriate administrator no later than December 1.

After reviewing the recommendations of applicable college, school or departmental promotion and tenure committees and appropriate administrators, the institutional promotion and tenure committee will add its recommendation and forward all information to the President no later

than January 15 of each academic year. The working papers and files of the promotion and tenure committee(s) will remain confidential; except that, subsequent to the Board's final determination, the President will have the written recommendations of administrators with supervisory responsibility for the faculty unit member placed in the faculty unit member's personnel file.

The faculty unit member will be notified, no later than April 1 of the year in which the faculty unit member is being considered for promotion, of whether the President will recommend promotion to the Board. Such notice will indicate the institutional promotion and tenure committee's recommendation. If the promotion is denied, the President will, upon receipt prior to April 10 of a written request, within fifteen (15) working days of the request, provide reasons in writing for the decision.

If the promotion is recommended by the President, the recommendation will be transmitted to the Board for final action at its next regularly scheduled meeting.

10.60 PROMOTION AND TENURE COMMITTEE FORMULATION - HIGHER EDUCATION INSTITUTIONS

The institutional promotion and tenure committee will consist of elected members of the faculty unit and members of the administration. The composition of the committee will be: fifty (50) percent faculty unit members; fifty (50) percent administrators. Each President will determine the total number of members for the institutional promotion and tenure committee at each institution.

The faculty unit representatives on the institutional promotion and tenure committee will be elected by the faculty unit as soon as practicable after the commencement of school activities in the fall. Membership terms will be for three (3) years. Vacancies will be filled according to procedures established for the original appointment. Election procedures will be determined by COHE and the election will be conducted under its auspices. Election procedures must provide all faculty unit members with equal opportunities to be nominated for committee membership with the exception that faculty unit members, who themselves are to be considered for promotion or tenure, are not eligible for membership on the promotion and tenure committee during the academic year in which their promotion or tenure is being considered.

Administrators will be appointed by the President.

There will be, in addition to the institutional promotion and tenure committee at USD and SDSU, college or school promotion and tenure committees as the case may be. At all institutions, departments or other appropriate administrative units may petition the President for the creation of a promotion and tenure committee for the respective department or unit. If approved, the President will determine the membership consistent with the ratio and constituency heretofore established for the institutional promotion and tenure committee.

11.00 TENURE AND CONTINUING CONTRACTS

11.10 TENURE APPOINTMENT - HIGHER EDUCATION INSTITUTIONS

A tenure contract may be extended to a faculty unit member in accordance with the provisions of this Article. It entitles a faculty unit member to re-employment from year to year until such time as the faculty unit member resigns (section 8.70, Contract Fulfillment), retires or reaches mandatory retirement age, is discharged for cause (Article 15.00, Discharge for Cause), or is terminated pursuant to a reduction of personnel (Article 13.00, Faculty Unit Member Reduction Procedures). A tenure contract granted by an institution will be valid at that institution and may be transferable to other institutions within the system.

Not later than during the sixth year of tenure track contract service at an institution, a faculty unit member will be considered for a tenure contract which would begin with the next academic year provided the faculty unit member has attained the minimal rank position of Assistant Professor at BHSC, NSC, DSC, or Associate Professor at SDSU, USD, and SDSM&T.

Tenure track service credit is not earned during a period of leave of absence, but may be earned during sabbatical leave periods.

The Board may, at its discretion and upon the recommendation of the administration of the institution, reduce the number of years of tenure track service required.

A faculty unit member who has been granted a tenure contract at one institution within the system and is employed at another institution within

the system may be considered for tenure during the second year of tenure track appointment at the new institution.

The Board may grant tenure to a faculty unit member conditioned upon the attainment of a required academic degree. Such condition must be satisfied within a period of time specified by the Board. The faculty unit member will be given a term contract pending satisfaction of the condition.

The performance record of a faculty unit member considered for tenure will be based upon the performance evaluations conducted by the administration during all years of service credited toward tenure qualification.

The institutional promotion and tenure committee will review the qualifications of each faculty unit member who has satisfied the tenure track service requirements. After consultation with applicable college, school or departmental promotion and tenure committees, the institutional promotion and tenure committee will submit its recommendations as to whether or not each faculty unit member under consideration should be granted tenure. Those recommendations will be submitted to the President by no later than December 10 of each academic year. The working papers and files of the promotion and tenure committee(s) will remain confidential.

An institutional recommendation to grant tenure to a faculty unit member will be based upon an assessment of the candidate's past contributions and promise of future contributions to the goals and missions of the institution. The President will make the institutional recommendation to the Board by April 1.

The faculty unit member will be notified, not later than February 1 of the year in which the faculty unit member is being considered for tenure, of what the President will recommend to the Board regarding the faculty unit member's tenure status. Such notice will indicate the institutional tenure committee's recommendation. If tenure is denied, the President will, upon request, within fifteen (15) working days of the request, provide reasons in writing for the decision.

Faculty unit members who hold tenure at the time of execution of this Agreement will be deemed to have tenure under this Agreement.

11.20 COMMITTEE FUNCTIONS - HIGHER EDUCATION INSTITUTIONS

The process for formulation of institutional, college, school, department or unit promotion and tenure committees is described in Section 10.50.

The promotion and tenure committees will make their recommendations to the administrator of the applicable department or unit. Administrators will consult with their departmental or unit promotion and tenure committee in formulating their recommendations to the next successive promotion and tenure committee.

It will be the function of the institutional promotion and tenure committee to advise the administration as to whether or not the faculty unit member should be granted tenure.

11.30 ADMINISTRATIVE ACTIONS - HIGHER EDUCATION INSTITUTIONS

The administration will make recommendations to the Board as to whether or not a faculty unit member should be awarded tenure.

11.40 EXCEPTIONS - HIGHER EDUCATION INSTITUTIONS

Upon request of the President, the Board may approve exceptions to the minimum rank qualifications stipulated in Section 10.40.

11.50 CONTINUING CONTRACT PROVISIONS - SPECIAL SCHOOLS

Faculty unit members on appointment in one (1) of the special schools under the control of the Board will serve a probationary period of two (2) years. During the probationary period, faculty unit members will be evaluated once each semester and given notice of any deficiencies. Evaluations and plans to correct deficiencies will be conducted in accordance with Article 9.00, Evaluation.

Any faculty unit member employed at one (1) of the special schools who is in or beyond the third full year of employment will be automatically reappointed for the following year, unless notice of intention not to renew the contract is received on or before the third Monday of March of any year.

Faculty unit members who are in or beyond their third year of employment at the institution will have fifteen (15) working days from the date of notification of non-renewal in which to schedule a meeting with the Superintendent. During the meeting, the Superintendent will make available to the faculty unit member for review the faculty unit member's personnel file, advise the faculty unit member in writing of the reasons on which the intention not to renew is based and afford the faculty unit member an apportunity for an informal private conference on the reasons. The faculty unit member may bring a representative of the member's choosing to the conference. Within five (5) working days of the conference, the

Superintendent will notify the faculty unit member as to whether the Superintendent will rescind the notice of intention to non-renew or recommend to the Board that the faculty unit member be non-renewed.

The faculty unit member may seek review of the Superintendent's decision within ten (10) working days by submitting a written appeal to the Board, if the faculty unit member believes the reasons given for non-renewal are not factual or believes procedural rights have been violated. Any such review will be processed in accordance with Article 6.00, Grievance Procedure, begining at Step 3.

12.00 TRANSFER, ASSIGNMENT AND REASSIGNMENT

12.10 GENERAL PROVISIONS

Intra-institutional transfers are defined as those transfers wherein a faculty unit member within an institution transfers to another department, school or faculty position within the same institution. An applicant from within the same institution will be selected for the position over other applicants provided that the faculty unit member's qualifications as related to the job description are equal to or better than those of any other applicant.

Inter-institutional transfers are defined as those transfers wherein a faculty unit member from one (1) institution under the governance of the Board transfers to another such institution. Inter-institutional applicants will be selected over outside applicants providing that their qualifications as related to the job description are equal to or better than those of any outside applicant.

The accrued rights of faculty unit members will be maintained in those cases involving involuntary transfers of faculty unit members that have resulted from geographical relocation of programs. The Board will provide moving expenses in the case of such transfers as provided by state rules and regulations.

12.20 FURTHER PROVISIONS - SPECIAL SCHOOLS

The reassignment of faculty unit members to another assignment will be made by the Superintendent or designated representative.

Criteria for reassignment and/or transfer include the following (not in priority order):

1. Area of certification.

2. Contribution which the faculty unit member could make to the students in the position.

3. Educational need of special school.

4. Opportunity for professional growth.

5. Degree major and/or minor area of preparation.

6. Length of service at SDSD/SDSVH.

The administration will post, in the location or locations usually used for faculty notices, vacancies which occur during the academic year and vacancies for the following academic year, as soon as such vacancies are certain. During the months of June, July and August, vacancy notices will be sent to the presidents of the local COHE chapters.

When involuntary changes in assignments are necessary, due to changes in enrollments or programs, faculty unit members in those positions will be notified in writing as soon as possible. Lists of positions will be made available to all teachers being involuntarily reassigned. The administration will make every effort to reassign faculty unit members according to their area of qualification and expertise.

12.30 ASSIGNMENTS - HIGHER EDUCATION INSTITUTIONS

The administration will make every effort to assign faculty unit members according to their area of qualification and expertise.

Faculty unit members will have the opportunity to review their schedules and discuss them with their supervisor before such schedule is finalized.

If faculty unit members believe that the duties which are being assigned are outside the area of their academic preparation, they will notify the President or Superintendent in writing, which notice will be placed in their personnel file.

13.00 FACULTY UNIT MEMBER REDUCTION PROCEDURES

13.10 GENERAL PROVISIONS

If, in the judgment and discretion of the Board, it becomes necessary to terminate the contractual rights of faculty unit members because of legislative action, gubernatorial action, significant loss of enrollment, consolidation of departments, or other reorganization, dropping of courses, programs, or activities, or financial exigency, the Board may, notwithstanding any other provision of this Agreement, terminate the appointments of faculty unit members in accordance with the provisions of this Article.

If the provisions of this Article are to be utilized, the President or Superintendent of the institution will inform any individual faculty unit member of termination and provide the local President of COHE or the Uniserv Director of COHE of the reasons for the reduction and the faculty unit members to be affected under the proposal, in order for COHE to have the opportunity to respond. Such response will be within ten (10) working days of the President's or Superintendent's notice. Upon request of COHE, the President or Superintendent will schedule a meeting to discuss the response. An effort will be made to provide notice of intent to utilize the provisions of this Article, as soon as practicable.

13.20 FACULTY UNIT MEMBER REDUCTION PROCEDURES - HIGHER EDUCATION INSTITUTIONS

The following guidelines will be used in sequence in the identification of faculty unit members, within a designated organizational area, to be

terminated subject to the need to retain personnel with special skills essential to a program.

1. Whenever possible, faculty unit member reduction will be accomplished through attrition.

2. Among faculty unit members serving under term contracts those employed in permanently funded positions will have retention priority over those employed in temporarily funded positions, and those employed full-time will have retention priority over those employed on a part-time basis.

3. Faculty unit members service under tenure track contracts will have retention priority over faculty unit members service under term contracts.

4. Faculty unit members service under tenure contracts will have retention priority over faculty unit members serving under tenure track and term contracts.

5. Among faculty unit members having equal retention priority the faculty unit member with greatest seniority will have retention priority. Seniority will be based upon faculty unit member's total years of full-time equivalent employment within the system exclusive of periods of unpaid leave, provided that faculty unit members with a break in service of more than four (4) years will not be given credit for service prior to such break.

6. The preceding provisions of this Article notwithstanding, a faculty unit member who is under a prescriptive plan may be

terminated prior to any other faculty unit member. A prescriptive plan will not be used to frustrate the intent of this Article.

7. If a tenured faculty unit member is terminated under this Article, the position may not be filled for a period of two (2) years, unless the terminated faculty unit member has been offered reappointment. The terminated faculty unit member has twenty (20) working days from the receipt of an offer of reappointment to accept the position.

8. Faculty unit members will be recalled in order of greatest seniority provided the faculty unit member is qualifed to perform the duties of the vacant position.

9. The fringe benefits of faculty unit members who return to employment under item 7 or 8 above will, to the extent provided by law, be as they were at the time their previous employment terminated, provided the benefits still exist and they are eligible for them in the new position.

10. Every reasonable effort will be made to relocate a terminated faculty unit member in other academic, administrative, or staff position that is vacant, provided the faculty unit member is qualified to perform the duties of the position. Priority consideration for relocation will be given to those faculty unit members nearing retirement age. If relocation is accomplished, the salary and other considerations of employment will be as stated for that position.

11. Every reasonable effort will be made to allow an affected unit member to complete the current contract.

12. To the extent that the same or comparable positions are available, the accrued rights of faculty unit members will be maintained in those cases involving involuntary transfers of faculty unit members that have resulted from geographical relocation of programs. The Board will provide moving expenses in the case of such transfers as provided by state rules and regulations.

13.30 FACULTY UNIT MEMBER REDUCTION PROCEDURES - SPECIAL SCHOOLS

At the Special Schools the following guidelines will be used in sequence in the identification of faculty unit members, within a designated organizational area, to be terminated subject to the need to retain personnel with special skills essential to a program:

1. Whenever possible, faculty unit member reduction will be accomplished through attrition.

2. Among faculty unit members serving under probationary contracts those employed in permanently funded positions will have retention priority over those employed in temporarily funded positions and those employed full-time will have retention priority over those employed on a part-time basis.

3. A qualified faculty unit member serving under a continuing contract will have retention priority over a faculty unit member serving under a probationary contract.

4. Among faculty unit members having equal retention priority the faculty unit member with greatest seniority who is qualified to fill the staffing needs of the institution will have retention priority. Seniority will be based upon a faculty unit member's total years of full-time equivalent employment exclusive of periods of unpaid leave, provided that faculty unit members with a break in service of more than four (4) years will not be given credit for service prior to such break.

5. If a faculty unit member who is on continuing contract is terminated under this Article, the position may not be filled for a period of two (2) years, unless the terminated faculty unit member has been offered reappointment. The terminated faculty unit member has twenty (20) working days from the receipt of notice to accept an offer of reappointment.

6. Faculty unit members will be recalled in order of greatest seniority, provided the faculty unit member is qualified to perform the duties of the vacant position.

7. The fringe benefits of faculty unit members who return to employment under this Section will, to the extent provided by law, be as they were at the time their previous employment terminated, provided the benefits still exist and they are eligible for them in the new position.

8. Every effort will be made to relocate a terminated faculty unit member in other academic, administrative, or staff positions that are vacant at the special schools, provided the faculty

unit member is qualified to perform the duties of the position. Special consideration for relocation will be given to those faculty unit members nearing retirement age. If a relocation is accomplished, the salary and other considerations of employment will be as stated for that position. In addition, a faculty unit member at the special schools will be considered for inter-institutional transfers in accordance with Article 12.00, Transfer, Assignment and Reassignment.

9. In all cases, affected faculty unit members will be allowed to complete their individual appointment contract.

10. The accrued rights of faculty unit members will be maintained in those cases involving involuntary transfers of faculty unit members that have resulted from geographical relocation of programs. The Board will provide moving expenses in the case of such transfers as provided by state rules and regulations.

13.40 FEDERAL FUNDING - SPECIAL CONDITIONS

A faculty unit member who is terminated in accordance with this Article, and whose position was supported by federal funds, will have no priority of employment over faculty unit members in positions supported by state funding sources, unless such faculty unit member was previously employed in a state funded position. In the latter case the faculty unit member will be treated in accordance with the guidelines provided in this Article.

13.50 FURTHER PROVISIONS

A faculty unit member terminated pursuant to the provisions of this Article may institute a grievance under Article 6.00, Grievance Procedure, and the burden of proof will rest with the administration to the extent required by law.

14.00 ACADEMIC FREEDOM

14.10 STATEMENT

The parties agree and declare that academic freedom will be guaranteed to faculty unit members subject only to accepted standards of professional responsibility including, but not limited to, those herein set forth:

1. The parties to this Agreement recognize and accept the importance of academic freedom to teaching and learning. Academic freedom includes the right to study, discuss, investigate, teach and publish. Academic freedom applies to both teaching and research. Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher in teaching and of students to freedom in learning. It includes the freedom to perform one's professional duties and to present differing and sometimes controversial points of view, free from reprisal. The faculty unit member is entitled to freedom in research and in the publication of the results, subject to the performing of other assigned academic duties.

2. Faculty unit members are entitled to freedom in the classroom in the discussion of their subject. They will have the freedom to include the presentation of various scholarly views.

3. The concept of freedom should be accompanied by an equally demanding concept of responsibility. The faculty unit members are members of a learned profession. When they speak or write as citizens, they must be free from institutional censorship or

discipline, but their special position in the community imposes special obligations. As learned people and as educators, they should remember that the public may judge their profession and their institution by their utterances. Hence, they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should indicate that they are not speaking for the institution.

This provision is intended to guarantee those rights which are recognized as flowing from the First Amendment of the United States Constitution.

15.00 DISCHARGE AND OTHER DISCIPLINE

15.10 PROCEDURE FOR DISCHARGE FOR CAUSE

A faculty unit member, tenured or not, may not be discharged, except for just cause, unless otherwise provided in this Agreement.

If in the judgment of the administration just cause for discharge exists, the faculty unit member will be furnished written notice of the allegations supporting that determination and the administration's intent to discharge from employment. The matter will be discussed with the faculty unit member in a personal conference, which will be held at a time not sooner that ten (10) working days, nor later than fifteen (15) working days from the date of transmission of written notice, unless otherwise agreed by the faculty unit member and the administration. The faculty unit member may bring to this meeting a representative chosen by the faculty unit member. The administration, however, will not proceed with formal action to discharge until the faculty unit member has through delay or other clear expression indicated the intention to waive the right to Article 6.00, Grievance Procedure, or until the provisions of that Article have been exhausted. Formal discharge will be effective upon receipt of written notice by the faculty unit member. Any grievance appeal under this Section will begin at Step 2. The conference required at Step 2 must be held by the President or Superintendent, or in the absence of the President or Superintendent, the acting President or Superintendent, and will not be designated to any other person.

The administration may suspend a faculty unit member with pay pending final action to discharge if, in the administration's judgment, the character of the charges warrants such action.

The burden to prove that just cause exists will rest on the administration.

15.20 DISCHARGE FOR CAUSE AND OTHER DISCIPLINE

The Board of Regents may discharge or otherwise discipline any faculty member for acts of gross immorality, incompetency, flagrant neglect of duty or other such conduct as particularized and proscribed by Board Policy 5/4/2, 5/4/3, and 5/4/4, (Apppendix I).

15.30 DISCRETIONARY APPLICATION

The Board of Regents shall have the discretion to mete out the alternative disciplinary actions under Board of Regent policies referred to above and, in the event such action taken shall be made the subject of a grievance under Article 6.00, the burden shall be on the faculty unit member to establish inequitable application of such discretion.

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16.00 PERSONNEL FILES

16.10 STATEMENT

A single official personnel file will be maintained on each faculty unit member at a central location(s) designated by the President or Superintendent; provided, however, that there will be two (2) such official files maintained on those faculty unit members with Federal appointments by the Extension Service at South Dakota State University. Business records concerning each member of the unit may be maintained in the institutional business or personnel office.

Beginning with the effective date of this Agreement, items placed in a faculty unit member's personnel file will be signed and dated by the person placing the material in the file.

Faculty unit members will have access to their personnel and business record files, exclusive of confidential pre-employment placement credentials, during normal business hours and may request copies, at their own cost, of material contained therein. If the file is not immediately available, it will be made available within one (1) working day. Faculty unit members may not remove their files from the room in which they are housed.

Faculty unit members may enter a statement in their files which they feel clarifies, corrects, or refutes material therein, and such statement will be attached to the applicable documents in the file. Faculty unit members may also place in their file materials relevant to academic qualifications, teaching, research, scholarship and service.

Access to faculty unit members' personnel files will be restricted to the faculty unit members, their authorized agents, or authorized administrators.

A log will be maintained which indicates the following:

1. Name of faculty unit member.

2. Date accessed.

3. Name of person accessing file.

4. Date returned to room in which file in housed.

18.00 UNIT MEMBER RESPONSIBILITIES

18.10 UNIT MEMBER RESPONSIBILITIES - HIGHER EDUCATION INSTITUTIONS

Upon accepting an appointment, a faculty unit member generally assumes responsibility in three (3) areas: teaching, research and scholarship, and service unless otherwise specified under item (6) of Section 7.15. A Representative List of duties within these areas is found in Appendix C. In addition, a faculty unit member is expected to perform assigned responsibilities in accordance with recognized standards of professional ethics and departmental policy.

18.20 WORKLOAD - HIGHER EDUCATION INSTITUTIONS

The parties to this Agreement recognize that workload policies are established for each campus. To this end the workload ad hoc committees established under the 1981-1984 Agreement, giving consideration to previous reports they have submitted, have formulated workload policy recommendations on credit hours, contact hours, preparations, clinical work and other items as deemed appropriate for their respective campuses. Any part(s) of the institutional workload policies which need change or cannot be agreed to after discussions between the President and a majority of the committee's membership by February 15, 1986, will be forwarded to the Board and COHE negotiations teams for subsequent negotiations. In such case it is the intent of the parties that the previously agreed upon workload policies will remain in effect as referenced in the institutions' faculty handbooks.

18.21 WORKLOAD COMMITTEE

17.00 ACADEMIC GOVERNANCE

17.10 GENERAL STATEMENT

Academic governance at each institution will exercise all the rights, powers and prerogatives heretofore possessed, except to the extent that such rights, powers and prerogatives are in conflict with the rights, powers and prerogatives secured by COHE by this Agreement, in which case the rights, powers and prerogatives of COHE will supersede and are exclusive of those of the established academic governance.

17.20 CURRICULUM COMMITTEES - SPECIAL SCHOOLS

Curriculum committees will be established for the purpose of studying curriculum development at the special schools. The committees will include up to three (3) faculty unit members to be appointed by the COHE chapter president and up to three (3) administrators. The committees will be responsible for providing their recommendations to the Superintendent regarding curriculum change or development of a curriculum area.

A single committee will be established for the purpose of formulating two workload policies - one for USD, SDSU, and SDSM&T, and the other for BHSC, NSC, and DSC. This committee will consist of two (2) members appointed by the Board of Regents and two (2) members appointed by the Uniserv Director.

18.22 WORKLOAD - LIBRARIANS - HIGHER EDUCATION INSTITUTIONS

Faculty unit members assigned to positions in the various institutional libraries shall normally average forty (40) hours during any work week. The work week, for purposes of this Article, will begin at midnight Friday and end at midnight the following Friday.

A faculty unit member will not be required to work on more than five (5) calendar days per work week unless the assignment is mutually agreed to by the administration and the faculty unit member. A faculty unit member will not be required to work more than seven (7) consecutive days, unless mutually agreed to by the administration and the faculty unit member.

Faculty unit members assigned to library positions with teaching responsibilities will have their class time and class preparation time (two (2) hours per credit hour) counted into their forty (40) hour week.

All faculty unit members assigned to library positions will enjoy the same rights and must maintain the same professional expertise and responsibility as exercised by other faculty unit members by this Agreement. Librarians shall be responsible for sufficient and adequate provision of library services to support the mission and goals of each institution. The determination of the adequacy of said services shall rest with the President of each institution and the librarians' immediate supervisor.

Librarian faculty unit members shall be expected to perform assigned responsibilities in accordance with recognized standards of professional ethics and departmental policy. Any failure of librarian faculty unit members to perform according to said standards shall subject said members to discharge for cause or other disciplinary measures in accordance with Article 15.00 of this Agreement.

18.30 PRIVATE PRACTICE AND CONSULTATION - HIGHER EDUCATION INSTITUTIONS

A higher education faculty unit member who enters into private practice, private consulting, additional teaching or research, or other activity for which additional compensation is received during the faculty unit members' contract period and during the period of this Agreement, will not contract to devote more than 16 hours cumulative per month or 144 hours per year (non-cumulative) on such activity if said activity shall require the faculty unit members' absence from duties. The activity for which the individual is released must be substantially and significantly related to assigned duties and must benefit the professional discipline and development of the individual as determined by the President under such guidelines and restrictions, as shall be established from time to time by the Board. Released time will also be subject to the following conditions:

The faculty unit member will:

1. apply in writing to the President, on established forms, for written approval before engaging in such activity or contracting to do so;

2. report to the President through administrative channels the activity, duration of the activity, and the number of hours which were devoted to the additional activity;

3. limit and restrict such activity so that it does not interfere with assigned responsibilities;

4. reimburse the institution at the institutionally established rate for any institutional space, equipment, personnel, and materials used for such additional activity.

18.40 OUTSIDE EMPLOYMENT

The statutory provisions regarding dual employment are at SDCL 3-8-4 to 3-8-5.4. The Board and the institution will not infringe upon a faculty unit member's privilege to engage in consulting or other employment outside the institution's regular day class schedule during the academic year, so long as the other employment does not adversely affect or conflict with the faculty unit member's performance of his primary responsibilities to the institution.

18.50 PROFESSIONAL TRAVEL

Travel expense incurred by faculty unit members in administratively authorized representation of the institution at federal, state agency, or other professional meetings will be fully reimbursed by the institution in accordance with state travel regulations. The administration will develop uniform procedures by which a faculty unit member may request travel funds for professional activities. Faculty unit members may submit concerns regarding travel procedures to the administration.

18.60 STUDENT DISCIPLINE

Student discipline is addressed in Board of Regents Policy Manual and each institution will include the student discipline policy for the institution in the faculty handbook. It is the responsibility of the administration to take appropriate steps to enforce the discipline policy(s) referenced above.

18.70 WORKDAY - SOUTH DAKOTA SCHOOL FOR THE VISUALLY HANDICAPPED

The workday for the faculty unit members on the campus of the SDSVH will commence at 8:00 a.m. and end at 3:45 p.m.

Because of required travel and home visits, the itinerent teachers will have a flexible schedule. Total weekly workload hours will remain equal to those of other faculty.

All faculty unit members will have a thirty (30) minute duty free lunch period.

An effort will be made to assign committee responsibilities equitably. Committee assignments which will require attendance beyond the faculty unit member's workday will be discussed with the faculty unit member prior to assignment.

18.80 WORKDAY - SOUTH DAKOTA SCHOOL FOR THE DEAF

The workday for the teaching faculty unit members on the campus of the SDSD will commence at 8:00 a.m. and end at 3:45 p.m.

The audiologist's workday will commence at 8:00 a.m. and end at 4:30 p.m.

The administration at the special schools bears the responsibility for determining the necessity for and structuring of professional days activities.

Each school will establish a professional days activities committee comprised of up to three (3) faculty unit members to be elected by members of the faculty unit and up to three (3) administrators to be appointed by the Superintendent. The committee will be responsible for providing professional days program recommendations to the Superintendent and for evaluating the content and format of the professional days activities.

18.82 GENERAL FACULTY MEETINGS - SPECIAL SCHOOLS

The administration at the special schools bears the responsibility for determining the necessity for general faculty meetings. Such meetings will culminate no later than 4:00 p.m. Faculty unit members may make recommendations to the administration concerning the agenda.

18.83 SUBSTITUTES - SPECIAL SCHOOLS

It will be the responsibility of the administration at the special schools to secure substitutes when deemed necessary by the administration. Faculty unit members will not be required to assume responsibilities for students of absent faculty, except in unforeseen situations of less than one-half day duration, when the administration cannot cover the class. Where regular faculty unit members are utilized as substitutes, such assignments will be made equitably.

The workday for the independent living faculty unit member will commence at 8:00 a.m. and end at 3:45 p.m. three days a week, with flexible schedules of seven and one-half hours (7 1/2) for the remaining two days of the week.

Part-time faculty unit members will work only that portion of the day/week which is equal to their percentages of a full unit member. Part-time faculty unit members will be required to participate in faculty meetings or scheduled professional activities if such meetings or activities fall during their assigned working hours.

If in the judgment of the administration, it is necessary that a part-time faculty unit member attend professional activities which are scheduled during other than the faculty unit member's normal working hours, a part-time unit member may be required to attend and will be compensated for the additional working hours.

Because of required travel and home visits, the itinerent teachers will have a flexible schedule. Total weekly workload hours will remain equal to those of other teaching faculty.

All faculty unit members will have a forty-five (45) minute duty free lunch period daily.

An effort will be made to assign committee responsibilities equitably. Committee assignments which will require attendance beyond the faculty unit member's workday will be discussed with the faculty unit member prior to assignment.

18.81 PROFESSIONAL ACTIVITIES - SPECIAL SCHOOLS

Scheduling for Individual Educational Program meetings will attempt to avoid use of faculty unit members as replacement faculty; however, faculty unit members may be used if necessary.

18.84 PREPARATION PERIODS - SPECIAL SCHOOLS

Preparation periods are provided to allow faculty unit members to prepare their instructional plans and materials. If a faculty unit member needs to leave the campus for a class-related activity or emergency, the faculty unit member will sign out at the Principal's office before leaving and sign in upon returning to the campus.

Class preparation time at the School for the Visually Handicapped will not amount to less than eighty (80) minutes per work day. Part-time faculty unit member's class preparation time will be prorated.

Class preparation time at the School for the Deaf will not amount to less than one hundred ten (110) minutes per work day. Part-time faculty unit member's class preparation time will be prorated.

Faculty unit members will have input into the scheduling of pre-staffing and IEP meetings that will involve their attendance. An effort will be made to limit pre-staffing and IEP meetings to no more than two (2) per week for any one (1) faculty unit member.

18.90 ACADEMIC CALENDAR - HIGHER EDUCATION INSTITUTIONS

The academic calendar for the academic year will consist of a minimum of eighty-six (86) days per semester including registration and final examination periods and will provide for common periods at each institution when classes are not in session.

19.00 WORKING CONDITIONS

19.10 SAFE WORKING CONDITIONS

The parties will comply with all applicable state and federal laws relating to safe working conditions.

Whenever a faculty unit member becomes aware of a condition which the faculty unit member feels is a violation of an institutional safety or health rule or regulation, the faculty unit member will report such conditions to an appropriate administrator who will promptly investigate such conditions.

Protective devices and first aid equipment will be provided to faculty unit members who practice in a hazardous institutional environment and the faculty unit member will be responsible for the proper use of such devices.

19.20 UNIT MEMBER OFFICES - SPECIAL SCHOOLS

The administration at the special schools will provide faculty unit members with either private offices (if available), lockable desks, or a lockable file for the security of private and confidential materials and articles.

19.21 OFFICE SECURITY - HIGHER EDUCATION INSTITUTIONS

If an office is assigned to a faculty unit member, the institution will provide security of each faculty unit member's office by means of a lockable door. The institution will furnish the faculty unit member a lockable desk or a lockable file. Access to a faculty unit member's desk

and files by the parties to this Agreement will be dependent upon the authorization of the faculty unit member; however, in exceptional circumstances, the administration shall be allowed access to a faculty unit member's desk and files in the company of the faculty unit member or his designee.

19.30 HEATING AND AIR-CONDITIONING - HIGHER EDUCATION INSTITUTIONS

An effort will be made, subject to budgetary and physical constraints, to improve present air conditioning and heating conditions through deferred maintenance. Where feasible, seasonal reassignment of offices will be made at the request of the faculty unit member.

19.40 EDUCATIONAL MATERIALS - HIGHER EDUCATION INSTITUTIONS

Higher education faculty unit members will have the opportunity to select the materials and texts for the courses for which they are professionally responsible, provided that these are consistent with the course descriptions and not in conflict with the continuity of the curriculum. Every reasonable effort will be made to provide adequate equipment and materials required for each approved course of study.

19.50 TELEPHONE SERVICE

Each institution will provide access to telephone service for faculty unit members under the general guidelines that institutions, where needs are demonstrated, will provide improved service and privacy of conversations with consideration given to budgetary constraints and departmental priorities.

19.60 CLERICAL ASSISTANCE AND INSTRUCTIONAL SUPPLIES

The parties recognize the desirability of professional clerical assistance and adequate instructional supplies. To the extent that financial resources permit, effort will be made to provide faculty unit members the clerical assistance and instructional supplies necessary for the fulfillment of their assigned responsibilities.

An effort will be made to assign work-study students equitably.

20.00 LEAVES

20.10 GENERAL STATEMENT

Faculty unit members will have the right to accrue and use leave in accordance with SDCL Chapter 3-6.

20.20 SICK LEAVE

Full-time faculty unit members at the higher education institutions who have contracts for the full academic year will accumulate nine (9) hours of sick leave credit per month, except during the months of September and March, when eleven (11) hours are credited. Faculty unit members who are employed fifty percent (50%), but less than one hundred percent (100%), during the full academic year, will earn sick leave on a prorated basis of the above. Accrual will be unlimited.

Full-time faculty unit members at the special schools will accumulate 4.3 hours of sick leave credit per each full two (2) week pay period. If faculty unit members are paid for less than a full pay period, accrual will be prorated. Faculty unit members who are employed fifty percent (50%), but less than one hundred percent (100%), during the full academic year, will earn sick leave on a prorated basis of the above. Accrual will be unlimited.

Sick leave may be granted for personal illness, pregnancy and related disabilities, exposure to contagious diseases that would endanger the health of fellow employees, required eye and dental care, or required medical examination.

The institutions have the right to investigate the use of sick leave. If use of sick leave is found to be for other than the uses listed above, the time off will be charged to leave without pay, and may be cause for disciplinary action.

Advanced sick leave may be granted, not to exceed 244 hours. Advanced sick leave may be used only after the exhaustion of all regularly accumulated sick and annual leave. Advanced sick leave will be charged against all sick leave credits subsequently earned. Advanced sick leave must be repaid prior to leaving the employment of the institution. Advanced sick leave may not be granted during the first year of employment. All advanced sick leave must be approved by the President or Superintendent.

This provision is intended to guarantee only those rights specifically contained in SDCL Chapter 3-6, Sections 3-6-7, 3-6-8, 3-6-8.1, 3-6-8.2 and 3-6-8.3.

20.30 PERSONAL EMERGENCY LEAVE

Faculty unit members are allowed to use twenty (20) hours of accumulated sick leave during each calendar year for personal emergency, funerals or serious unexpected circumstances.

20.40 ANNUAL LEAVE

Faculty unit members who have ten (10), eleven (11), or twelve (12) month appointments, exclusive of summer session appointments, and who are required to perform regular duties during student vacation periods, shall accrue annual leave credit on the following schedule for each month of service:

HIGHER EDUCATION INSTUTITION

Years of Service	Rate of Accumulation
0 through 15	10 hours per month.
Over 15	13 hours per month except during September and March when 15 hours are accrued.

SPECIAL SCHOOLS

0 through 15	4.6154 hours per pay period.
Over 15	6.1539 hours per pay period.

Accrual begins on the faculty unit member's date of employment. No annual leave may be taken until the faculty unit member has completed six (6) months of service. The total accrual at the end of any one (1) month may not exceed that which the faculty unit member may earn in two (2) years of service. When a faculty unit member is on annual leave and is terminating employment, no other type of leave may be used.

This provision is intended to guarantee only those rights specifically contained in SDCL Chapter 3-6, Sections 3-6-6, 3-6-6.1 and 3-6-6.2.

20.50 MILITARY LEAVE

Faculty unit members who are called to active duty in the military services are eligible to request a leave without pay during the length of the required service.

Faculty unit members who are members of Reserve or National Guard units are authorized up to fifteen (15) working days during a calendar year for required training. The faculty unit member does not lose pay or benefits during the training period.

20.60 JURY LEAVE

Faculty unit members who are summoned for jury duty will receive their regular compensation, and are authorized to accept the fees ordinarily paid to a juror. No charges will be made against accrued leave.

20.70 SABBATICAL, FACULTY UNIT MEMBER IMPROVEMENT AND CAREER REDIRECTION LEAVES

A faculty unit member may be granted sabbatical leave after six (6) or more consecutive years of full-time employment in the system. A faculty unit member may be granted faculty unit member improvement or career redirection leave after three (3) consecutive years of full-time employment in the system. Approval for such leave will be contingent upon the faculty unit member presenting plans for formal study, research, or other experiences which are designed to improve the quality of service of the faculty unit member to the institution, to the Board and to the State of South Dakota.

The number of all faculty unit member improvement, career redirection or sabbatical leaves granted by an institution during any fiscal year will not exceed five percent (5%) of the faculty unit members or one (1) FTE, whichever is greater, in any one (1) year.

Sabbatical leaves for nine (9) month faculty unit members will be for not more than two (2) semesters at one-half the salary which would have been paid had the faculty unit member been on full-time employment, or not more than one (1) semester at the full salary which would have been paid had the faculty unit member been on full-time employment.

Sabbatical leave for twelve (12) month faculty unit members will be for not more than twelve (12) months at one-half the salary which would have been paid on full-time employment, or not more than six (6) consecutive months at the full salary which would have been paid on full-time employment.

Faculty unit member improvement or career redirection leave for nine (9) month faculty unit members will be for not more than two (2) semesters at eight percent (8%) of the salary which would have been paid on full-time employment, for each full academic year of consecutive full-time service, up to a maximum of fifty percent (50%) of salary, or not more than one (1) semester at sixteen percent (16%) of the salary which would have been paid on full-time employment, for each full academic year of consecutive full-time service, up to a maximum of one hundred percent (100%) of salary, for each year of consecutive service.

Faculty unit member improvement or career redirection leaves for twelve (12) month faculty unit members will be for not more than twelve (12) months at eight percent (8%) of the salary which would have been paid on full-time employment, for each full year of consecutive full-time service, up to a maximum of fifty percent (50%) of salary, or not more than six (6) consecutive months at sixteen percent (16%) of the salary which would have been paid on full-time employment, for each full year of consecutive service up to a maximum of one hundred percent (100%) of salary.

All faculty unit members receiving faculty unit member improvement, career redirection, or sabbatical leave are required to return to the institution granting the leave for at least two (2) academic years of full-time service, or to refund the full salary and institutional costs of fringe benefits received while on leave. If a faculty unit member returns, but fails to perform the full two (2) years return-to-service obligation, then the repayment obligation will be prorated. Any repayment obligation will be due in full one (1) calendar year after the end of the leave period or any subsequent, successive leave periods. Any repayment obligation which

remains unpaid after falling due shall earn interest at an annual rate of eighteen percent (18%) compounded semi-annually. A faculty unit member who cannot perform return-to-service obligations due to a death or permanent and total disability, or reduction in force, will be released of all repayment obligations. Determination of whether a faculty unit member is to be considered disabled will be made by the Board.

All faculty unit members, upon return from faculty unit member improvement, career redirection, or sabbatical leave will be returned to their former positions or be assigned to positions of like nature and status, and will be granted increment increases that were given during their leave. They may be considered for merit increases as if they had served at the institution during such period. They will maintain tenure, insurance benefits, accumulated sick leave, and all other accrued benefits. If the faculty unit member is on less than fifty percent (50%) compensation, service for retirement is not accumulated during the period of such leave. Nothing in this Article will be construed to abrogate other provisions of this Agreement which affect employment status.

The following criteria will be considered in selecting the candidates for faculty unit member improvement, career redirection or sabbatical leave:

1. The merit of the objectives as they relate to improving the instructional program and enhancing the professional growth of the applicant, and where other institutions are involved, evidence of acceptance of the faculty unit member's program or project by the institution offering the advanced study or research.

2. Years of experience in the system.

3. Previous leaves.

4. Distribution of applicants by academic area.

All grantees of faculty unit member improvement, career redirection or sabbatical leave will execute a promissory note with the Board which is consistent with the terms of this Article.

20.80 LEAVE OF ABSENCE WITHOUT PAY

Leave of absence without pay may be granted by the Board for up to one (1) year for educational or other valid reasons. Exceptions may be granted by the Board.

20.90 UNAUTHORIZED ABSENCE

A faculty unit member who is absent from assigned professional activites without authorized administrative approval may be subject to the provisions of Article 15.00.

20.91 PROFESSIONAL LEAVE - SPECIAL SCHOOLS

Faculty unit members at the special schools may be granted professional leave. The administration will develop a procedure to be included in the faculty handbook by which the faculty unit member may apply for professional leave. The institutional COHE chapter may submit recommendations for this procedure.

21.00 FRINGE BENEFITS

21.10 STATEMENT OF BENEFITS

Subject to legislative prerogative and action, the following fringe benefits will remain in force and effect for the faculty unit members:

> Retirement (SDCL Ch. 3-12), Unemployment Insurance (SDCL Title 61), Worker's Compensation Insurance (SDCL Title 62), Long Term Disability Insurance (SDCL Ch. 3-12), and Personal Liability Indemnification (SDCL Sections 3-19-1 and 3-19-2).

The health and life insurance policies presently in effect for the faculty unit members will remain in force until and unless such policies are modified, changed, substituted or extended by legislative or executive action.

Liability coverages presently in force for faculty unit members shall remain in force and effect until and unless such policies or coverages are modified, changed, substituted or extended by executive action.

The UniServ Director of CCHE will be furnished a copy of any master policies for health, life and liability insurance.

21.20 GENERAL PROVISIONS

In the event the foregoing insurance coverages shall be changed by legislative or executive action, the parties agree to meet, at the written request of either, to renegotiate that portion of this Article which is affected. Such negotiations will commence within thirty (30) working days of receipt of the request for renegotiation. During the period of

negotiations, the policies and coverages established by the modification, change or extensions will go into effect at such times as are specified in the respective contracts of insurance shall so provide and existing policies and coverages are deemed amended accordingly.

21.30 STUDY COMMITTEE

A committee will be established to conduct an annual review of fringe benefits provided to faculty unit members and make recommendations to the Executive Director and COHE concerning fringe benefits. The committee will consist of two (2) faculty unit members appointed by COHE and two (2) administrators appointed by the Board. Meetings of this committee will be scheduled by mutual agreement.

The committee will make its report to COHE and the Board not later than October 15 and May 15 of each subsequent year.

21.40 EARLY RETIREMENT PROGRAM

The parties agree that the early retirement program which has been jointly developed should be made available to faculty unit members as soon as legislatively funded. The program is to be incorporated herein as completed.

22.00 SALARY PROVISIONS - FY 1984

22.10 GENERAL PROVISIONS

The provisions of this Article are contingent on the availability of funds authorized and appropriated by the Legislature and the salary increase guidelines expressed in the legislative letter of intent. The Board reserves the right to use discretionary funds for salary purposes.

22.20 SALARY ADJUSTMENT INCREMENTS - HIGHER EDUCATION INSTITUTIONS

Faculty unit members will receive no less than the legislatively approved percentage salary increases over their previous year's salary. If, however, the new contract, for which the increase is to apply, is for a different time frame or period, then the increase shall be adjusted to reflect such change prior to the application of the legislatively approved increase.

22.30 SPECIAL SALARY AND MERIT PAY BONUS

The 1984 Legislature has enacted into law a special merit pay fund of $400,000. The Board agrees to provide COHE with a report identifying the faculty unit members awarded special merit pay bonuses pursuant to this legislation, their position and the amount of the bonus.

22.31 SALARY IMPROVEMENT - HIGHER EDUCATION INSTITUTIONS

The parties recognize that faculty salaries are significantly lower than those paid to colleagues with comparable qualifications and experience in surrounding states.

The parties agree that a salary improvement program is necessary to make faculty unit member salaries commensurate with those of their colleagues in surrounding states and to make the South Dakota Higher Education System competitive with those states with respect to the hiring and retention of faculty.

To that end, the parties agree that discussion pursuant to Section 22.95 of this Amendment shall include seeking agreement on the internal and external funding necessary to bring faculty salaries comparable with those of surrounding states and discussion of a timetable by which those levels might feasibly be achieved.

22.35 SDSM&T, SDSU, AND USD IMPROVEMENT FEE PROGRAM

SDSM&T, SDSU, and USD will distribute program improvement fee funds as approved by the 1984 Legislature and the Board of Regents. COHE shall be provided a report concerning the distribution of program improvement funds which shall identify the faculty unit members who receive program improvement fee funds under this program, their position, and the amount of the program improvement fee payments.

22.40 PROMOTION INCREMENTS - HIGHER EDUCATION INSTITUTIONS

A faculty unit member who is to be promoted with the issuance of the fiscal year 1985 individual appointment will receive a minimum promotion increment based on the faculty unit member's fiscal year 1984 base salary. If the faculty unit member's fiscal year 1985 contract is for a different percentage of time or number of months than was in effect in fiscal year 1984, the fiscal year 1984 base salary will be adjusted to reflect such changes prior to the application of the following schedule of promotion increments:

Instructor to Assistant Professor - 5%

Assistant Professor to Associate Professor - 6.5%

Associate Professor to Professor - 7.5%

22.50 CONTINUING EDUCATION AND EXTENSION TEACHING COMPENSATION - HIGHER EDUCATION INSTITUTIONS

This section applies only to those institutions which have not negotiated local campus agreements with respect to continuing education and extension teaching compensation prior to the signing and ratification of this Amendment.

Each faculty unit member accepting a contract, in addition to the faculty unit member's regular employment appointment to teach a continuing education/extension course, will be compensated at a negotiated rate not less than Four Hundred Fifty Dollars ($450) per semester credit hour assigned, subject to the qualifications set forth below. When a course fails to meet the specified minimum enrollment, the contract may be voided

by the administration or the faculty unit member may be given the option to elect in writing to accept compensation at a lesser amount based on net revenue, considering deductions for fringe benefits, course-related travel and administrative costs.

It is the intent of the parties to this Agreement that the assignment of teaching these courses is not to be an overload assignment.

22.51 SALARY ADJUSTMENTS

A joint COHE/BOR Committee shall be formed for the purpose of identifying warranted salary adjustments among faculty unit members.

Such committee shall be formed and shall operate under the following guidelines:

1. The committee shall consist of four (4) members; two (2) appointed by COHE and two (2) appointed by the Board of Regents.

2. Expenses of members shall be the responsibility of the appointing parties.

3. The committee shall issue a report of a plan to obtain a statistical approach which identifies salary inequities and such report shall be provided to the Executive Director of the Board of Regents and the Director of COHE.

The report contemplated by the preceding paragraph shall be prepared, documented, and submitted at the earliest time as shall be permitted in the circumstances and complexities of the task. The Board of Regents shall receive and review the report toward the end that the findings and

recommendations received will be considered in conjunction with other factors used and established for faculty compensation. Unless and until released by the Board of Regents, the report shall remain confidential.

In the distribution of discretionary salary monies the Board of Regents shall give priority to adjusting salaries of faculty who have been identified, or are otherwise identifiable, by the joint committee and approved by the Board.

22.60 1985 SUMMER SESSION COMPENSATION - RATES AND PROVISIONS - HIGHER EDUCATION INSTITUTIONS

This section applies only to those institutions which have not negotiated local campus agreements with respect to summer session compensation rates and provisions for the 1985 summer session(s) prior to the signing and ratification of this Amendment.

It is the intent of the parties that where summer session compensation rates and provisions have been previously determined by a percentage of the academic year base salary that the same process be continued for the summer of 1985. Negotiations will include minimum class size and course offerings. If the local parties fail to reach agreement prior to April 15, 1985, the matter shall be referred to the Board and COHE negotiation teams for resolution. If the matter is not resolved within ten (10) working days thereafter, the Board shall resolve the matter at the next regular Board meeting.

When a course fails to meet a specified enrollment, the contract may be voided by the administration, or the faculty unit member may be given the option to elect in writing, to accept compensation at a lesser amount

based on net revenue considering deductions for fringe benefits, course-related costs and administrative costs.

22.65 POLICIES, PRACTICES AND COMPENSATION - CONTINUING EDUCATION SUMMER SESSIONS

The parties intend that uniform summer session and uniform continuing education/extension policies and practices be established on each campus. However, the parties recognize that this goal has previously been unachievable. Therefore, as soon as is practical, committees consisting of two (2) faculty unit members appointed by the local chapter of COHE and two (2) administrators appointed by the president will be continued on each campus to review current policies and practices regarding summer sessions, continuing education and extension and make recommendations to their respective presidents; specifically noting any recommendations not unanimously agreed upon by the members of the committee. The Student Association on each campus may appoint a student observer to be present at committee meetings. The student observer will have the right to enter into committee discussions.

In subsequent years, modifications of locally agreed policies on any campus may be proposed by the President or local COHE chapter to be resolved by the processes described above.

22.70 SPECIAL SCHOOLS SALARY SCHEDULE POLICIES

Faculty unit members at the special schools will be placed upon the salary schedule as set forth in Appendix G according to the following policies effective with their 1984/85 employment contracts:

1. Faculty unit members employed full-time for nine (9) months for fiscal year 1985 will be placed in the lane and on the step of the salary schedule, as set forth in Appendix G, which corresponds to their level of training and experience (one step credit for each year of 50% time or more of experience). No faculty unit member will receive less than a six and one-tenths percent (6.1%) increase, based on their fiscal year 1984 salary. If the faculty unit member's fiscal year 1985 contract is for a different percentage of time or number of months than was in effect in fiscal year 1984, the fiscal year 1984 base salary will be adjusted to reflect such changes prior to application of salary increases.

2. Faculty unit members with appointment contracts of more than nine (9) months will receive additional compensation based upon proration of their appropriate nine (9) months salary level.

3. Faculty unit members employed for fifty percent (50%) time or more, but less than full-time will be placed in the lane and on the step of the salary schedule, as set forth in Appendix G which corresponds to their level of training and experience (one step credit for each year of 50% time or more of experience), and will receive the salary for the appropriate step, multiplied by the percentage of full-time employment as indicated on their appointment contract. Faculty unit members employed less than fifty percent (50%) time will receive credit for advancement on the salary schedule. To be counted for advancement on the salary schedule, such employment must be for

at least a full semester. Advancement on the schedule will occur when the part-time experience is the equivalent of one year of 50% time or more of employment.

4. It is the intent of the parties that faculty unit members paid from federal or other restricted fund sources will be placed on the salary schedule by the same process used for faculty unit members paid from direct operating funds. It is recognized that this provision will be implemented only if funds are available from the appropriate federal or other restricted fund sources and the institution receives approval for additional spending authority or transfer authority necessary to implement this provision.

5. Faculty unit members will be awarded one (1) full year of prior experience credit for each year of teaching experience at a school whose primary mission is, in the case of SDSVH, special education for the visually handicapped and in the case of SDSD, special education for the deaf. Faculty unit members will be awarded one (1) full year of prior experience credit, up to a maximum of eight (8) years, for each two (2) years of teaching experience at any other institution. If the faculty unit member establishes that the experience was comparable to that provided in the current assignment one (1) year of credit will be awarded for each year of appropriate experience, without limit as to the number of years of credit.

6. Notification, in writing, of intent to acquire educational requirements which would lead to a lane change will be provided to the administration no later than April 1. The faculty unit member will provide verification of the completion of education requirements to the administration no later than September 1. If such verification is not provided, the faculty unit member will be returned to the appropriate lane.

22.75 CERTIFICATION - SPECIAL SCHOOLS

1. Faculty unit members who have provided proof of current certification to the Superintendent prior to September 1 will be paid an additional Five Hundred Seventy-Two Dollars ($572) per fiscal year.

2. "Certification" as used in this Article will mean, at the School for the Deaf, current certification by the Council for Education for the Deaf, (CFD-Provisional or CED-Professional), and at the School for the Visually Handicapped, current certification by the Association of Educators for Visually Handicapped (AEVH level AA or level AAA) or college certification in orientation and mobility.

3. It is the intent of the parties that faculty unit members paid from federal or other restricted fund sources will be paid for certification at the same rate as faculty unit members paid from direct operating funds. It is recognized that this provision will be implemented only if funds are available from the appropriate federal or other restricted fund sources and the

institution receives approval for additional spending authority or transfer authority necessary to implement this provision.

4. Notification, in writing, of intent to acquire certification will be provided, by the faculty unit member, to the administration no later than April 1.

22.80 SPECIAL SCHOOLS EXTRA-CURRICULAR COMPENSATION

The authorized voluntary assumption of the following extra curricular activity supervision at the special schools by faculty unit members will be compensated in accordance with the following schedule:

SDSVH

Track	
Boys	$624
Girls	$624
Drama/Declam	$416
Goalball	$936
Newspaper	$624

SDSD

Track	Head	Assistant
Boys	$ 728	$364
Girls	$ 728	$364
Basketball		
Boys	$1,040	$520
Girls	$1,040	$520
Volleyball		
Girls	$ 520	
Cross Country		
Boys	$ 520	
Cheerleading		
Sponsor	$ 208	
Awareness Group		
Sponsor	$ 520	

Drama	$ 312
Newspaper	$ 624

If one of the special schools decides to establish additional compensated extra-curricular activities, other than those indicated above, the Superintendent, prior to the implementation of the extra-curricular activity, will inform the President of the COHE chapter of the plans and compensation for the extra-curricular activity. Faculty unit members at the school will be offered the opportunity to apply for the extra-curricular activity supervision.

Vacancies which occur in existing extra-curricular activity supervision will be filled in the same manner as for new activities.

22.95 SALARY AND FRINGE BENEFIT FUNDING

Representatives of the Board and COHE will meet prior to the August Board meeting in 1985 to hold preliminary discussions on salary and fringe benefits for the following year. In subsequent years, this meeting will be held prior to the June Board meeting. It is the intent of the parties to attempt to reach such agreement as is necessary to cooperate in supporting legislation to fund salaries and fringe benefits.

23.00 LEGISLATIVE ACTION

23.10 STATEMENT

Where a provision of this Agreement requires legislative action, other than appropriations, for its implementation, COHE and the Board agree to meet to discuss the drafting of such legislation, and its introduction into the legislative process. Where mutual agreement is reached on the proper form of the desired legislation, and the proper introduction of such legislation into the process, then the parties will lend their support to the passage of such legislation.

It is agreed by the parties that any provision of this Agreement which requires legislative action to permit its implementation by enactment of a bill into law, or by appropriation of funds therefore, will not become effective until the necessary legislative action is obtained.

If the Legislature appropriates insufficient funds to properly implement any provisions of this Agreement which is dependent on such funding, said provision will be implemented to the extent of the funds appropriated. It is understood that if the inadequacy of funding affects both unit and non-unit personnel, that the funds appropriated will be prorated by the Board between the unit and non-unit personnel, and only the amount allocated to the unit will be available for the implementation of the affected provision.

If the Legislature does not appropriate any funds to implement a provision of this Agreement which is dependent on such funding, then said provision will not be placed into force.

The provisions of Article 3.11 (8) do not obligate COHE to support legislation enacting merit pay.

24.00 AGREEMENT MANAGEMENT PROVISIONS

24.10 AGREEMENT MANAGEMENT

In order to facilitate the management of this Agreement, the following Agreement Management Committees are established.

24.11 INSTITUTIONAL AGREEMENT MANAGEMENT COMMITTEES

Each institution will establish an Institutional Agreement Management Committee (IAMCOM) made up of three (3) administrators, appointed by the Institutional president, and three (3) faculty unit members appointed by the COHE chapter president, except at the special schools where the committees will be comprised of two (2) administrators who will be appointed by the Superintendent and two (2) faculty unit members by the COHE chapter president. For each of such committees, the appointment authorities will designate one (1) of their appointees ad co-chairperson. The co-chairpersons will be jointly responsible for establishing meetings and composing agenda. Such committees will meet at least once every ninety (90) calendar days unless otherwise agreed by the co-chairpersons.

The IAMCOM are intended to be informal forums for identification and discussion of problems of interpretation of Agreement language and Agreement implementation and management. The Committees are not authorized to modify, supplement or amend Agreement language. Items of business will be placed upon the agenda of any meeting upon written request of any two (2) members.

The Committee will report the subject and results of its deliberations to the Board, COHE, the presidents, superintendents and other IAM Committees.

The Committee will not become involved in the grievance process or in negotiations, nor be obligated to reach agreement on any item of business considered.

24.20 TOTALITY OF AGREEMENT

All matters on which the parties have reached agreement are set forth in this document. All other understandings, representations, or agreements between the parties are of no force and effect.

During the duration of this Agreement, the provisions hereof will supersede any previous or future regulations, practices, rules, policies or handbook provisions which may be in conflict with the express terms hereof. Any individual contract entered into between the Board and a faculty unit member will be subject to the provisions of this Agreement.

24.30 PRINTING AND DISTRIBUTION OF AGREEMENT

The Board and COHE will cooperate in preparing and printing this Agreement. The Board will prepare the master copy for printing. The galley proof for the printing of this Agreement will be approved by the parties. The costs of production will be shared equally by both parties based upon a mutual agreement as to the price and number of copies to be printed. The Board will be responsible for arranging for the printing of this Agreement. COHE agrees to pay the Board for their share of the printing costs within thirty (30) days of the date billed.

The Board at the time of any new hire will be responsible for providing to the new faculty unit member a copy of this Agreement from the above number of copies printed.

24.40 SEVERABILITY

If any word, phrase or provision of this Agreement or any application thereof to any faculty unit member or the Board is held to be contrary to law by a court of competent jurisdiction, such word, phrase, or provision or application will be deemed valid and subsisting only to the extent permitted by law and all other words, phrases, provisions and applications will be separated and continue in full force and effect.

24.50 WAIVER

Failure of either party to require performance by the other party of any promise, condition or covenant herein will in no way affect the full right to require such performance at any time thereafter, nor will the waiver by either party of a breach of any promise, condition or covenant hereof be taken or held to be a waiver of the promise, condition or covenant.

24.60 MODIFICATION

This Agreement may be modified in writing upon mutual agreement of the parties.

24.70 NOTICE

Unless otherwise provided, where notice is required to be given, it will be sufficient:

1. In the case of faculty unit members, if sent by certified mail to their last reported residential address or if hand delivered directly to the affected faculty unit member;

2. In the case of COHE, if sent by certified mail to the institutional COHE President at the last reported residential address, or COHE, 2116 South Minnesota Avenue, Sioux Falls, South Dakota 57105 or hand delivered to the institutional COHE President or to an employee of the Sioux Falls COHE office;

3. In the case of the Board, if sent by certified mail to Board of Regents, Kneip Building, Pierre, South Dakota 57501; or hand delivered to the Executive Director of the Board of Regents;

4. In the case of institutional Presidents or Superintendents, if sent by certified mail to their respective institutional addresses, or hand delivered to an employee of the respective President's or Superintendent's office;

and in all other cases, if sent by campus or regular mails to the institutional office or regular business address of the person or party. The parties agree that a signed receipt adknowledging hand delivery will be provided upon request.

Notice will be required only when the words "notice" or "notification" appear in this Agreement.

Where notice is required to be given by a date certain, it will be effective if postmarked by the United States Postal Service by midnight of the day prior to the specified date. Where notice is required to be given within a certain time period, it will be effective if postmarked by the United States Postal Service by midnight prior to the last day of such time period.

25.00 EFFECT, DURATION AND RENEGOTIATION

25.10 EFFECT AND DURATION

The provisions of this Agreement will take effect when signed and ratified by both parties. It will remain in full force and effect through the 30th day of June, 1985, except to the extent provided below.

On or before the first day of April, 1985, either party may notify the other that it wishes to renew or modify this Agreement. In this event, the parties will meet no later than the 15th day of April, 1985, to negotiate with respect to a successor agreement.

If a successor agreement has not been ratified by the 30th day of June, 1985, the parties may mutually agree to extend the force and effect of this Agreement.

26.00 DUES DEDUCTION

26.10 STATEMENT - HIGHER EDUCATION INSTITUTIONS

During the term of this Agreement, the Board agrees to deduct COHE membership dues, in an amount established by COHE and communicated in writing to the Board by an authorized official of COHE, from the pay of those faculty unit members in the bargaining unit who individually and voluntarily make such request on the dues deduction authorization form as depicted in Appendix D of this Agreement.

Deductions will be made monthly. Annual dues will be deducted in twelve (12) equal installments for faculty unit members with twelve (12) month contracts, or whose nine (9) month compensation is paid in twelve (12) installments. Annual dues will be deducted in nine (9) equal installments for faculty unit members with less than twelve (12) month contracts. Twelve (12) month contract faculty unit members requesting dues deduction subsequent to July or less than twelve (12) month contract faculty unit members requesting the dues deduction subsequent to September will have their annual dues deducted in the remaining pay periods on a prorata basis. The faculty unit member's dues deduction authorization form must reach the business office no later than the tenth day of the month in which the authorized dues deduction is to begin. COHE will give to the Board written notice of any change in its dues at least thirty (30) working days prior to the effective date of any such change, provided only one (1) such change is made per calendar year.

The dues deducted will be remitted by the institution to the local COHE treasurer as soon as possible, but not later than fifteen (15) working

days following the end of each pay period. Accompanying each remittance will be a list of the faculty unit members from whose salaries such deductions were made, and the amounts deducted.

The institutions will not be responsible for making deduction for dues if a faculty unit member's pay within a pay period, after other mandatory or voluntary deductions, is less than the amount authorized. In such event it will be the responsibility of COHE to collect its dues for that pay period directly from the faculty unit member.

The institution's responsibility for deducting dues from a faculty unit member's salary will terminate automatically upon either 1) revocation of the faculty unit member's prior dues deduction authorization, or 2) cessation of the authorized faculty unit member's employment, or 3) the cessation of the authorizing faculty unit member's inclusion in the bargaining unit.

Faculty unit members who wish to cancel their dues deduction authorization will forward a completed dues deduction cancellation form (Appendix E) to the institutional payroll section prior to the first of the month in which the faculty unit member wishes their dues deduction authorization to be cancelled.

The institution will inform the institutional COHE President of any request for dues deduction cancellation by the fifth working day of the month in which the dues deduction is to be cancelled.

COHE will indemnify, defend and hold the Board, its members, officials, agents and representatives harmless against any claim, demand, suit, or any form of liability (monetary or otherwise), including attorneys' fees

APPENDIX A

GRIEVANCE FORM - STEP 1

South Dakota Board of Regents and The Council of Higher Education (COHE)

Institution: _____ Date: _____

Name: _____

Dept: _____

Address: _____

_____

Provisions of the Agreement violated:

Article(s): _____

Section(s): _____

Statement of Grievance:

Remedy desired:

Name of person to whom this Grievance is addressed: _____

and costs, arising from any action taken or not taken by the Board, its members, officials, agents or representatives in complying with this Article or in reliance upon any notice, letter or written authorization furnished to the Board pursuant hereto. COHE assumes full and sole responsibility for all monies deducted pursuant to this Article upon remittance to COHE. COHE will promptly refund to the Board any funds received pursuant to this Article which are in excess of the amount of dues which the Board has agreed to deduct.

The Board will not deduct from the pay of any faculty unit member any COHE fines, penalties, and special assessments which are not a part of the amount of annual dues.

The Board's responsibilities under this Article will terminate automatically upon 1) the expiration of this Agreement, or 2) violation by COHE of the provisions of this Article.

26.20 STATEMENT - SPECIAL SCHOOLS

Dues deduction for faculty unit members employed at the Special Schools is currently prohibited by the State Board of Finance Rules. At such time that Board of Finance Rules are changed to allow dues deduction for faculty unit members at the Special Schools, at no additional cost to the Board, or faculty unit members at the Special Schools are placed on the Regents' payroll system, dues deduction will be allowed for faculty unit members at the Special Schools.

(This must be the administrator at the lowest level who has or may have the authority to resolve the Grievance.)

Date of Grievance or the date that the faculty member had knowledge of its occurrence: _____

Signature of Grievant: _____

GRIEVANCE FORM - STEP 2

South Dakota Board of Regents

Institution: _____ Date:_____

Name: _____

Department or Division: _____

Address to which mailings pertaining to this Grievance will be sent:

_____

_____

Provision(s) of Agreement violated:

Article(s): _____

Section(s): _____

Statement of Grievance (include date of acts or omissions complained of):

Remedy desired:

Evidence of informal adjustment attempted:

I will be represented in this Grievance by:

COHE_____ Legal Counsel_____ Myself_____

Signature of Grievant: _____

Date of Filing: _____

Received by: _____

Position Title: _____

GRIEVANCE REVIEW FORM

South Dakota Board of Regents

Date:_____

I hereby request that the Executive Director review the attached decision made in connection with the attached grievance because:

I have received the decision on _____(date).

I will be represented in this grievance by:

COHE_____ Legal Counsel*_____ Myself_____

Signature of Grievant: _____

Date of Filing: _____

Received by: _____

Position Title: _____

*If represented by legal counsel, indicate name, address and telephone number below:

APPENDIX C

REPRESENTATIVE LIST OF FACULTY UNIT MEMBER RESPONSIBILITIES

HIGHER EDUCATION INSTITUTIONS

INTRODUCTION

A representative list of faculty unit member responsibilities in the areas of teaching, advising, research and scholarship, and service follows: and service follows:

Teaching:

Teaching may include the following activities:

(1) classroom instruction, preparation and supervision;

(2) field-based or off-campus instruction;

(3) Laboratory design, preparation, instruction, supervision, and other associated responsibilities;

(4) student teacher supervision and evaluation;

(5) measurement of student performance including the preparation, administration, grading and evaluation to tests, papers, examinations, and reporting of grades;

(6) conference with and academic advisement of students outside of their registration needs;

(7) coordination, supervision, and evaluation of student research beyond regular course assignments, including research for a graduate degree;

(8) coordination and supervision of student activities directly related to the academic program such as directing the debate team or supervising the intramural athletic program;

(9) coordination and supervision of academic programs;

(10) experiments in teaching methods and teaching-oriented research;

(11) writing letters of recommendation for students;

(12) selection and procurement of books, films, and other materials for classroom or laboratory use;

(13) evaluation periodically of library holdings and recommendations of books to be ordered by the library;

(14) development of new courses and programs of study;

(15) other similar activities.

Advising:

(1) advisement and counseling of students

(2) service as a member of a graduate student's research project committee

Research and Scholarship:

Research and scholarship may include the following activities:

(1) research which leads to the discovery of new knowledge or new applications of existing knowledge;

(2) research intended to lead to publication in scholarly journals or books;

(3) on-going reading and research to maintain proficiency and growth in one's field of professional specialization;

(4) in the case of fine and performing arts, regular practice and performance to maintain and develop professional skills;

(5) research intended to lead to the preparation and presentation of a scholarly paper to a professional society, or a paper in one's field of specialization to any group;

(6) editing professional journals and service as a referee of manuscripts that have been submitted to a journal;

(7) reviewing texts in one's field of specialization for publishers;

(8) holding membership or an office in professional associations;

(9) attendance and participation in meetings, conferences and conventions of professional associations;

(10) writing proposals for financial support of research or other projects, including academic institutes or workshops;

(11) consulting with other faculty on research proposals or projects;

(12) institution-sponsored research;

(13) discipline-connected consultation or discipline-connected community service; and

(14) other similar activities.

Service:

Service may include the following activities:

(1) service on institutional committees;

(2) service on professional association committees;

(3) service on academic senate and its committees;

(4) service on institutionally affiliated committees;

(5) participation in institutionally-sponsored activities to recruit students;

(6) interviewing and screening candidates for faculty and staff appointments;

(7) coordination, advisement and supervision of student organizations or student activities not directly related to the academic program;

(8) participation in sponsored community service or community projects;

(9) taking inventory of equipment and supplies;

(10) service as the designated representative of the campus;

(11) participation in community-sponsored activities within the campus such as the United Fund drive;

(12) service to state and local governments; and

(13) other similar activities.

DUES DEDUCTION AUTHORIZATION FORM

I authorize the South Dakota Board of Regents to deduct from my pay membership dues and uniform assessments, if any, established by the Council of Higher Education. The deduction will begin with the first full pay period after receipt of this authorization or _____(date) whichever occurs later, provided, it is received by the 10th day of the month in which authorization is authorized to begin. I authorize and direct the Board of Regents to pay over the sum deducted to COHE.

This authorization will continue until it is either 1) revoked by me by completion and submission of a dues deduction cancellation form (Appendix E), or 2) the cessation of my employment, or 3) the cessation of my inclusion in the bargaining unit.

I hereby waive all rights and claims for said monies paid in accordance with this authorization.

Name_____ S.S.#_____

Home Address_____

City_____ State_____ Zip_____

Department _____

Institution_____

Date_____ Signature_____

Date Received_____

APPENDIX E

DUES DEDUCTION CANCELLATION FORM

I hereby cancel my COHE dues deduction authorization, effective with the _____(month/year) payroll period.

Name_____ S.S.#_____

Home Address_____

City_____ State_____ Zip_____

Department _____

Institution_____

Date_____ Signature_____

Date received by Payroll Office_____

NOTE: Payroll Office will forward a copy of the completed form to the president of the institutional COHE chapter within five (5) days following receipt.

APPENDIX F

BARGAINING UNIT COMPOSITION

The bargaining unit includes:

All full-time and regular part-time (A regular part-time employee is one employed in the current semester who is employed fifty (50) percent but less than one hundred (100) percent of the normal full-time load.) instructional-research faculty in colleges and universities, the Agricultural Experiment Station, Cooperative Extension Service, Auxiliary Services, the South Dakota School for the Visually Handicapped and the South Dakota School for the Deaf, who are not supervisors as defined in 47:02:01:01 (12). The unit does not include the Medical School, the Law School, or the Institute of Atmospheric Sciences.

The unit excludes Deans, Assistant Deans and Associate Deans; Directors, Assistant Directors and Associate Directors; Department Chairpersons, Assistant Chairpersons and Associate Chairpersons; Department Heads, Assistant Department Heads and Associate Department Heads; Principals, Assistant Principals and Associate Principals; Superintendents, Assistant Superintendents and Associate Superintendents; Program Managers, and others who are supervisory and managerial, and also emeritus faculty; teaching and research assistants, teaching fellows and graduate assistants, adjunct or clinical faculty; county agents, county home economists and ROTC personnel.

Salary Schedule for SDSVH & SDSD
1984/1985 Special Schools Salary Schedule

BA	BA & 15	MA	MA & 15	MA & 30
$ 11.878	$ 12.433	$ 12.988	$ 13.543	$ 14.098
$ 12.355	$ 12.932	$ 13.509	$ 14.086	$ 14.664
$ 12.932	$ 13,509	$ 14.086	$ 14.664	$ 15.241
$ 13.509	$ 14.086	$ 14.664	$ 15.241	$ 15.818
$ 14.086	$ 14.664	$ 15.241	$ 15.818	$ 16.395
$ 14.664	$ 15.241	$ 15.818	$ 16.395	$ 16.973
$ 15.241	$ 15.818	$ 16.395	$ 16.973	$ 17,550
$ 15.818	$ 16.395	$ 16.973	$ 17,550	$ 18,127
$ 16.395	$ 16.973	$ 17,550	$ 18,127	$ 18,704
$ 16.973	$ 17,550	$ 18,127	$ 18,704	$ 19,282
	$ 18,127	$ 18,704	$ 19,282	$ 19,859
	$ 18,704	$ 19.282	$ 19,859	$ 20.436
	$ 19.282	$ 19.859	$ 20.436	$ 21.014
		$ 20.436	$ 21.014	$ 21.591
		$ 21.014	$ 21.591	$ 22.168
		$ 21.591	$ 22,168	$ 22.745
			$ 22.745	$ 23,323
			$ 23,323	$ 23.900
			$ 23,900	$ 24,477
				$ 25.054
				$ 25.632
				$ 26.209
OFF SCALE----------				
$ 23,099	$ 23.094	$ 24.672		$ 26,786
	$ 23,203	$ 25.174		
	$ 20.705			
	$ 21.897			
	$ 23,644			

**New Schedule for FY85 with an 7.9 percent increase. Increase includes augmentation, insurance and a 4 percent annual salary increase.

Professional Staff Evaluation Form
TO BE COMPLETED BY IMMEDIATE SUPERVISOR

1. Submitted as staff evalution for period of _____
OR
2. Submitted as a recommendation for (check those applicable):
   a._____ Contract renewal_____or Non-renewal_____(check one).
   _____ tenure track contract (_____contract) This will be the number of contracts toward tenure.
   _____ term contract from _____ (date) to _____ (date).
   b._____ Tenure
   c._____ Promotion to _____
   d._____ Other

PART A

TO BE COMPLETED BY STAFF MEMBER

3. Background Information:

Name:_____
Institution:_____
Department:_____
Date:_____
Academic Rank:_____ and Date Granted_____

Degrees	Date	Where Earned	Field

Additional Academic Training (study beyond last degree):

Experience (in reverse chronological order with experience at your present institution first).

Dates	Employer	Position or Faculty Rank	Type of Experience	#Years

4. Attach the position description given to you at the time of initial appointment, or as modified by your supervisor due to changing program needs.

5. Indicate your assignment distribution:

   Instruction ____% Scholarly Activities ____% Service ____% Advising ____%

6. State your responsibilities, duties, and/or tasks as you see them related to your present position description.

7. Indicate what your major performance objectives were for the current contract year (or this evaluation period, if applicable).

8. List your significant contributions as appropriate: (Appendix C of the BOR-COHE Agreement contains an example list)

   a. Teaching or Cooperative Extension activities
   b. Research and/or scholarship
   c. Service
   d. Advising

9. Indicate what your proposed major performance objectives are for the next contract year (or next evaluation period, if applicable). Include proposed checkpoints for regular discussion with your supervisor.

PART B

TO BE COMPLETED BY IMMEDIATE ADMINISTRATIVE SUPERVISOR

10. Professional performance:

    a. Indicate your assessment of the staff member's accomplishment of the professional responsibilities and duties and the performance expectations of this position. State specific areas of strength and/or specific areas of weakness as related to the position description or performance objectives (items 5-8).

b. What is your response to the staff member's major performance objectives for the next contract year (item 9)?

Signature of Supervisor Date

11. Staff member's comments:

I have reviewed these coments and ratings with my immediate supervisor. I have been informed of my particular responsibilities for accomplishing department, college, and university objectives through a position description. In addition, I would like to add:

Signature of Staff Member Date

5/4/2 Discipline and Other Just Cause

Except as elsewhere specifically provided to the contrary, any employee of the Board of Regents, including all faculty persons, shall be subject to the disciplinary measures provided for in Board of Regents Policies 5/4/3 and 5/4/4.

The Board of Regents may discharge or otherwise discipline such employees covered hereby, including all faculty persons, for "just cause" which shall include: gross immorality, incompetency, flagrant neglect of duty or other such conduct as is included, particularized, and proscribed by Board of Regents Policy 5/4/3.

Further, the Board of Regents shall have the right and discretion to mete out the alternative disciplinary measures, provided by Board of Regents Policy 5/4/4 in those cases it deems appropriate.

If, in the case of faculty persons, in the judgment of the administration just cause for discharge exists, and the Board of Regents should determine not to mete out the alternative disciplines provided under 5/4/4, the faculty person will be furnished written notice of the allegations supporting the determination and intention to discharge from further employment. The matter will be discussed with the faculty person in a personal conference, which will be held at a time not sooner than ten (10) working days, nor later than fifteen (15) working days from the date of transmission of written notice, unless otherwise agreed by the faculty person and the administration. The faculty person may bring to this meeting a representative chosen by the faculty person. The administration, however, will not proceed with formal

action to discharge until the faculty person has through delay or other clear expression indicated the intention to waive the right to Article 6.00. Grievance Procedure, or until the provisions of that Article have been exhausted. Formal discharge will be effective upon receipt of written notice by the faculty person. Any grievance appeal under this Section will begin at Step 2. The conference required at Step 2 must be held by the President or Superintendent, or in the absence of the President or Superintendent, the acting President or Superintendent, and will not be designated to any other person.

The administration may suspend a faculty person with pay pending final action to discharge if, in the administration's judgment. the character of the charges warrants such action.

The burden to prove that just cause, as herein next provided, exists will rest on the administration.

5/4/3 Discharge for Cause and Other Discipline

"Just cause" shall be deemed to include:

1. For other than tenured faculty, a failure to correct deficiencies in performance or compliance with a prescriptive plan developed pursuant to Article 9.00 (Evaluation).

2. A substantial breach of recognized published standards of professional ethics.

3. Conviction of any felony or the conviction of a misdemeanor involving moral turpitude.

4. Unauthorized absence from duties without prior notification or justifiable cause or excuse for the absence.

5. Possession or use of alcoholic beverages, marijuana, or controlled substances while on duty or on academic premises.

6. Wrongful refusal or failure to follow or comply with lawful orders or instruction of a superior, unless such instruction or order shall be in contravention of this Agreement, statute or regulation.

7. Intemperate use of alcohol, marijuana, or other controlled substance, which significantly impairs performance of duties.

8. Theft of state owned or controlled property.

9. Engagement or participation in those strike activities proscribed by SDCL Chapter 3-18.

10. More than twice subjected to a constructive plan, under 9.20. Subsection 5 of this Agreement, within a five (5) year period.

11. Sexual harrassment of students or employees, for which the Board of Regents may be vicariously responsible under law.

12. Intentionally and wrongfully counseling, inciting, or participation in validly proscribed student or faculty unit conduct activity.

13. Any substantial or irremedial impairment of the ability of a faculty unit member to perform assigned duties.

14. Other just cause.

5/4/4 Other Measures

Other disciplinary measures that may be taken by the Board of Regents under the provisions of a constructive or prescriptive plan and for violations of Items No. 1. 2. 3, 4. 6, 7, 8, 9, 13 and 14. in deference to termination or discharge as above provided, shall include the following:

1. Demotion;

2. Forfeiture of pay;

3. Forfeiture of tenure track entitlements;

4. Warnings to be filed with the personnel file of the faculty person;

5. Reassignment;

6. Suspension from duties and loss of pay commensurate therewith;

7. Required counseling or treatment at the cost of the faculty person.